



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

NYPL RESEARCH LIBRARY



3 3433 00603036 9

APR 6

(Xerox copy of memo)

Dele. 2101X

SEC





(Delacroix)
~~FEB~~
~~WF~~



A
R E V I E W
OF THE
CONSTITUTIONS
OF THE PRINCIPAL
STATES OF EUROPE,
AND OF THE
UNITED STATES OF AMERICA.

GIVEN ORIGINALLY AS LECTURES
BY *J. de la Croix Vincent Wilmet*
M. DE LA CROIX,
PROFESSOR OF LAW AT THE LYCEUM;
AND AUTHOR OF LE REPERTOIRE DE JURISPRUDENCE;
LA NOUVELLE ENCYCLOPEDIE, &c.

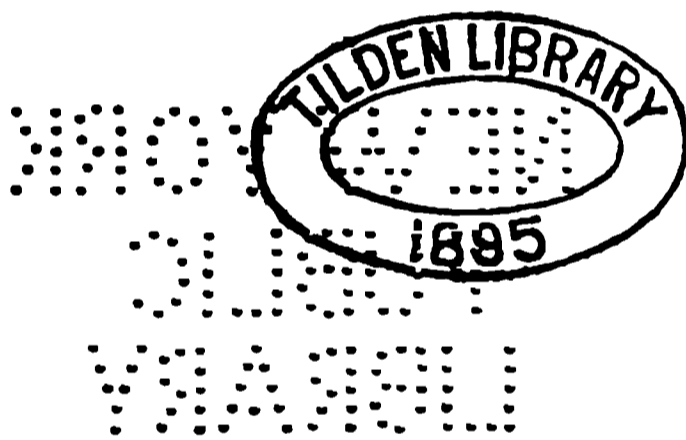
NOW FIRST TRANSLATED FROM THE FRENCH, WITH NOTES,
BY THE TRANSLATOR
OF THE ABBE RAYNAL'S LETTER
TO THE NATIONAL ASSEMBLY OF FRANCE, &c.

V O L. II.

L O N D O N :
PRINTED FOR G. G. J. AND J. ROBINSON,
PATERNOSTER-ROW.

MDCCXCII.

HMM.
M.E.T.



C O N T E N T S

O F T H E

S E C O N D V O L U M E.

CHAPTER XVI.

O F the Constitution of Venice - - - -	Page I
---	-------------------------

CHAPTER XVII.

Of the Constitution of Venice - - - -	32
---------------------------------------	----

CHAPTER XVIII.

Of the Constitution of Venice - - - -	66
---------------------------------------	----

CHAPTER XIX.

Of the Republics of Venice, Genoa, Lucca, and St. Marino - - - -	96
---	----

CHAPTER XX.

Of the Republics of Ragusa and Holland - - -	127
--	-----

CHAPTER XXI.

Of the Constitution of Holland - - - -	160
--	-----

CHAPTER XXII.

Of the Constitution of England ; and of the Origin of its Laws - - - -	193
---	-----

CHAPTER XXIII.

Continuation of the Constitution of England - -	249
---	-----

CHAPTER

C O N T E N T S.

CHAPTER XXIV.

Continuation of the Constitution of England	- -	Page 288
---	-----	----------

CHAPTER XXV.

Continuation of the Constitution of England	- -	326
---	-----	-----

CHAPTER XXVI.

Of the United States of America; their Origin; and the Events which preceded their Constitution	- -	365
--	-----	-----

CHAPTER XXVII.

Of the Constitution of the United States of America	408
---	-----

CHAPTER XXVIII.

A Patriotic Catechism for the Use of the French	-	430
---	---	-----

A P P E N D I X.

Declaration of Rights	- - - - -	449
Declaration by the Representatives of the United States of America	- - - - -	457
Articles of Confederation and Perpetual Union	-	460
The Constitution of the United States of America		475
Declaration of Rights of the Inhabitants of Massachu- setts	- - - - -	500
Abridgment of the Constitution of the same State	-	510
Abridgments of the Constitution of New Hampshire, Rhode-Island, Connecticut, New-York, New- Jersey, Pennsylvania, Delaware, Maryland, Vir- ginia, North and South Carolina, and Georgia, 513, &c.		

A RE.

A R E V I E W
OF THE
CONSTITUTIONS
OF THE
PRINCIPAL STATES OF EUROPE, &c.

C H A P. XVI.

OF THE CONSTITUTION OF VENICE:

IN giving an account of this republic, I shall, agreeable to the plan I have hitherto pursued, begin by examining the origin of its government, and trace from thence the degrees by which it has been brought to that form of constitution in which it now appears to be fixed.

Venice, that superb city, which seems to have arisen from the waves to reign the mistress of the
Vol. II. **B** Adriatic

Adriatic sea, was created by terror, is now fortified by her courage, enriched by her commerce, embellished by the arts, and supported by prudence.

In the fourteenth century the Roman empire, that Colloßus of power which had so long borne down the universe, approached the moment of her ruin. The fierce Attila, after having subdued all the nations of the north, was advancing towards Italy, there to exercise all the fury of vengeance. At his approach the Veneti (a people who inhabited part of Cisalpine Gaul) not being able to oppose the torrent which overturned every thing it met with in its passage, took refuge by crossing the canals, in some small islands situated in the bottom of the Adriatic gulph. One of these named the Rialta, served as a port to the city of Padua, but was scarcely inhabited.

When the ferocious Attila softened by Pope Leo, had abandoned the conquest of Rome, and contented himself with making it tributary, these islanders who lived in a miserable manner on uncultivated lands, forsook their retreats and returned to their former habitations; but scarcely were they settled there, when the same danger drove them back to those islands, from whence they contemplated, in safety at least, the ravages to which the inhabitants of the Terra Firma were exposed. On their return they brought with them those things of which they had most perceived the want during their first sojourn; and

and thus these islands became at once the most inhabited, and the most habitable part of Italy.

Men are no sooner united in any place of residence than they perceive the necessity of establishing among them some form of government: at such times absolute power is the most odious to them, and they are led by inclination to that form which extends authority to every individual, and gives to all an equal participation in the sovereignty. How is it that nature which inspires them with this sentiment, so frequently refuses that wisdom necessary for its proper direction?

After having considered and compared all the various kinds of power, these islanders preferred the tribunition: and as the body of this nation newly detached from the continent, was dispersed in different islands, it was resolved that each of them should have its tribune, who should be charged with dispensing justice to those within his jurisdiction; and that all causes relating to private persons should be brought before him: that these tribunes should be chosen annually, by the inhabitants of the district in which they were to exercise their authority; and that they should be accountable for their administration to the general assembly of the nation, which should alone have the right of determining all affairs relative to the state.

This plan may rank in point of wisdom with the most perfect which we find in antiquity; and while

the islanders had the good sense to adhere to it they were happy and peaceable.

The Vandals in the irruption which they made into Italy, passed by without molesting this new people, whose retreat was endeared to them when they found themselves inaccessible to these barbarians, and secure from the calamities which were spread over Italy by that savage horde. Genseric their chief, more inflexible than Attila, could not be moved by the supplications of Leo: he entered Rome, and committed there all the excesses into which rage can hurry a conqueror who is animated by false zeal. Genseric was soon followed by Odoacre, who forced Augustulus to descend from the imperial throne and hide his disgrace in the most profound obscurity.

“The desire (says the Abbé Laugier in his History
“ of Venice) of shaking off a humiliating yoke
“ made new refugees pass continually over to this
“ new republic: but though it was of much impor-
“ tance to the state to have its subjects increase, all
“ those who by their vices might disturb the public
“ tranquillity were rigorously excluded: none could
“ be admitted who were judged capable of injuring,
“ or incapable of serving the community; and pu-
“ rity of manners, and simplicity of conduct, united
“ with a disposition to labour, were requisite for ob-
“ taining among this people the rank of citizen.”

Several bishops who like true pastors were unwilling to be separated from their flock had followed
the

the fugitive families into this asylum, and maintained there the love of virtue among them.

How must these islanders have applauded their own courageous resolution; and how happy must they have esteemed themselves, while seated in the midst of the sea as in a secure port, they learnt from thence what was passing in Italy! In less than six years all that beautiful country had been ravaged by the Huns under Attila, by the Vandals under Genseric, by the Heruli under Odoacre, and at last by the Ostrogoths under Theodoric.

The Venetians availing themselves of their situation soon raised a marine, by means of which they carried on a trade towards the end of the fourteenth century in all the ports of the Adriatic gulf, and rendered themselves useful to the greater powers.

A letter from Cassiodorus minister of Theodoric, is a monument which gives a just idea of the situation of the Venetians under that emperor. In writing to their tribunes to command them to expedite a cargo of wine and oil, he says “it will cost you little to use
“diligence, you who frequently run over such im-
“mense spaces. Your situation renders navigation
“very familiar to you even without quitting home,
“because you go from house to house by sea. If con-
“trary winds prevent your hazarding yourselves on
“the main ocean, you have the conveniency of a
“multitude of rivers on which you can embark
“without fear of winds or tempests, and run along

“neighbouring country: while those who observe
“you from afar suppose you marching over the
“meadows and pastures.”

This minister of a king of the Ostrogoths had such a propensity for animating his style by images and descriptions, that he could not forbear painting to the Venetians what was in reality under their eyes. “Your habitations (says he) are placed like those of aquatic birds: after their example you have perfected your dwellings over this vast sea. You unite those scanty domains which nature has presented to you: you heap up the sands you find around for opposing the efforts of the waves, and this weak rampart is sufficient to resist the violence of the waters. Fish is the food common to all your inhabitants, for with you the poor and the rich participate in every thing. Even the uniformity and entire similitude of your houses banish far from your citizens all idea of a diversity of fortune; and this equality prevents all cause of jealousy and of dispute. Thus are you happily guarded from a vice which begets every where else so much calamity; and have nothing to call your attention from your salt houses which are to you both lands and harvest. Salt is more valuable to you than the richest money, because it furnishes you with every kind of provision: for men may do without gold, but they cannot without salt, because it is the necessary seasoning to all our meats.”

Those

Those who intend to give an account of the origin of a nation, are fortunate in finding such portraits drawn by their able contemporaries: they cast more light upon antiquity than all those monuments disfigured by time, and all the fables collected by credulous historians.

It is not ordained for man to possess the power of keeping himself forever sheltered from misfortunes and persecution: to whatever corner of the universe he retires injustice will still attack him, for she exists in all climates.

The Slavonians, a barbarous nation issuing from the frozen regions of Scythia, after proceeding along the shores of the Black Sea, divided into two parts; one part turned towards the country beyond the Danube, and the other after crossing that river, established themselves in Dalmatia; from whence they gained their way by degrees until they reached the borders of the Adriatic Sea, where they built the city of Narenta, and afterwards extended themselves into Istria.

It was always the fate of the southern nations to fly before those of the north. The Istrians, in order to avoid the yoke and the fury of the Slavonians, followed the example of the Veneti (Venetians), and took refuge on an island very near their continent, where they built the city of Justinopolis in honour of the emperor Justin who then reigned over the east: it is now known by the name of Capo d'Istria.

Of the Constitution of Venice.

The Slavonians when they had rendered themselves formidable by land, beheld with regret the people whom they had driven out of their possessions, take refuge in the neighbouring islands: and being determined to extirpate from the earth all those who had ever breathed in the countries conquered by them, they constructed vessels, exercised themselves in acts of plunder and piracy, and thus gave great alarm to the Venetians. That people soon found it necessary to arm their vessels of war to protect their navigation against these pirates; and in their first engagements with them, they were convinced, that those who have nothing on their side but rash courage and a rage for fighting, are much more likely to triumph on *terra firma*, than on an element where so great an advantage is derived from manœuvring.

The barbarians not humbled by one defeat renewed the attack with redoubled fury; and thus by obliging the islanders to be continually employed in defending themselves, they made them more able as well as more alert mariners. The consequence was that at the end of a very long and very obstinate war the Venetians had conquered Narenta and all Dalmatia.

It was a spectacle truly worthy of pity to behold this great empire, one of whose seats had been transferred to Constantinople, this immense body, which seemed under Constantine to extend its two arms over the universe, with one of these arms torn off
by

by the barbarians, and the other members bewailing its loss.

Justinian, who had succeeded his uncle Justin, conceived the design of recovering the western empire, from its last conquerors. Theodoric was no more; and his daughter, much more worthy than he of governing Italy, had been put to death by the perfidious Theodat whom she had raised to the throne. Justinian seconded by his general Belisarius had repulsed the Persians; and had taken glorious vengeance on the Vandals and recovered from them Africa, whither they had born the spoils carried away by Genferic after he had made himself master of Rome.

Theodat intimidated by these successes, which presaged an invasion of Italy, sent a solemn embassy to Justinian for proposing to establish with him a permanent peace: but the answer of Justinian was that of a prince conscious of his superiority. “ Let “ Theodat,” said he to the ambassadors, “ quit Italy “ and her adjacent isles; and let him render himself “ without delay to Constantinople, where I will award “ him the fate he deserves.” Theodat, however abject, did not choose to yield to such conditions: but not knowing how to stop Belisarius who was marching against him, or to put himself in any state of defence, he remained in Rome as if waiting only for the arrival of the conqueror to deliver himself into his hands.

The

Of the Constitution of Venice.

The Sclavonians when they had rendered themselves formidable by land, beheld with regret the people whom they had driven out of their possessions, take refuge in the neighbouring islands: and being determined to extirpate from the earth all those who had ever breathed in the countries conquered by them, they constructed vessels, exercised themselves in acts of plunder and piracy, and thus gave great alarm to the Venetians. That people soon found it necessary to arm their vessels of war to protect their navigation against these pirates; and in their first engagements with them, they were convinced, that those who have nothing on their side but rash courage and a rage for fighting, are much more likely to triumph on *terra firma*, than on an element where so great an advantage is derived from manœuvring.

The barbarians not humbled by one defeat renewed the attack with redoubled fury; and thus by obliging the islanders to be continually employed in defending themselves, they made them more able as well as more alert mariners. The consequence was that at the end of a very long and very obstinate war the Venetians had conquered Narenta and all Dalmatia.

It was a spectacle truly worthy of pity to behold this great empire, one of whose seats had been transferred to Constantinople, this immense body, which seemed under Constantine to extend its two arms over the universe, with one of these arms torn off
by

ashes under which she seemed for ever buried, were forced to fly for refuge to the fields.

Belisarius taking advantage of the absence of Totilas, rebuilt the walls of Rome, surrounded it with a deep ditch, and fortified it with intrenchments. The dispersed inhabitants came running into the midst of the ruins, and exerted themselves so arduously in repairing the edifices destroyed by the flames, that Rome appeared rising out of her ashes to new life, and was in a state to support another siege against her implacable enemy, who returned to prolong that destruction from whence he with redoubled fury beheld her thus rapidly ascending.

These events are not unconnected with the history of Venice. They prove that the Venetians, formerly dependent on the western empire, have justly acquired the right of governing themselves by their own laws, since they rose entirely by their own courage and industry; and those who pretend that the emperors of Germany in succeeding to the rights of the sovereigns of Rome, ought to preserve the same sovereignty over the Venetians as their predecessors exercised over the Veneti, confound all those principles which form the basis of public law. The Venetians owed no further obedience to the western empire, from the moment when that empire, so far from protecting them, could not defend itself against the barbarians; but reduced its vassals to the hard necessity of abandoning their country

to

The Ostrogoths, incensed at this timidity, deposed Theodat and chose Vitiges in his room, who shewed himself at least worthy of comparison with the general of Justinian; for he besieged him in Rome, and forced him to conclude a treaty which Belisarius afterwards eluded, not believing himself bound to observe faith with the chief of plunderers. By a second deceit, which has no more claim to approbation than the first, he rendered himself master of Vitiges who had retired to Ravenna, and led him prisoner to Constantinople.

After such great success, it seemed probable that the western empire would be reunited to that of the east, and that both would fall under the command of Justinian; but it was far otherwise, for a period marked by the most horrible calamities was at hand. The Ostrogoths having chosen Totilas for their chief, that ferocious warrior recovered in the absence of Belisarius all the territories which Vitiges had lost; destroyed all the Roman soldiers whom he encountered; and marching directly to Rome, besieged and took it in the sight of Belisarius who returned too late into Italy, which he ought not to have quitted.

It was under Totilas that the capitol of the world experienced the most cruel destruction. Its walls were levelled to the ground; its houses delivered to the flames; and its citizens all in tears at seeing no remains of Rome but the ruins and the heaps of
ashes

and the troops then submitted to the law of the conqueror.

It frequently happens that events which in themselves appear little worthy of attention produce important consequences. If the Veneti had not taken refuge in these islands: if the absolute privation of every thing produced on the continent had not reduced these new settlers to live upon the produce of the sea, and to procure every other article of consumption by exchanging it with other people, they had not had vessels to offer to the army of Justinian; and Totilas who had taken care to possess himself of all the passages which led to Ravenna by land, would have stopped Narfes in his rout, and Italy would perhaps have remained under the dominion of the Ostrogoths. A new event contributed much to aggrandize the Venetians and increase the population of their islands. Justinian at the conclusion of his reign saw reunited under his power, by the courage and conduct of Narfes, the two empires which the imbecility of his predecessors rendered them unable to preserve. The empress Sophia and her son Justin, ought to have loaded with favours a general who had rendered such signal services to the empire: but on the contrary he experienced the most disgusting ingratitude at their hands. The courtiers jealous of his merit and his glory, excited suspicions that he aimed at reigning in Italy: and the empress, as haughty as she was suspicious, insisted upon her
son

country to seek a new habitation in the midst of the waves.

One state can only be dependent on another while it is maintained by that state in the possession of its rights; and while it is protected by its arms and aided to repel its enemies. Such are the ties of feudal power: where there is no more protection there is no more a lord paramount and vassals: consequently the feudal system must have been at an end in France, from the moment when the lord had no longer his fortresses; no longer levied soldiers at his own expence; and marched no more but as the soldier of the king and the nation.

The new republic of Venice received neither succours or support from the legitimate sovereigns of either the eastern or western empires; it was not to them they owed the asylum which they had themselves created, and thus in no respect could the republic depend on them; but on the contrary she was able to afford them great assistance by aiding them to transport their troops to Aquilla and Ravenna, as she did when Justinian sent a considerable army into Italy under Narses to replace Belisarius. This new general, more fortunate than his predecessor, had the glory of reuniting Italy to the empire from which it had been separated for sixty years. Totilas fell in a battle with Narses: Teias whom the Ostro-goths chose to succeed him shared the same fate, and

Save themselves took refuge in the island of Rialta. The inhabitants of Odezzo, treated as inhumanly as those of Padua, threw themselves into the isles of Jezulo which were nearer to their shore, and afterwards built there the city of Heraclea.

The territory of Rialta was now insufficient to contain the new fugitives: it was soon increased by uniting with it all those islands which seemed floating around; and by constructing their buildings on piles at this period, the inhabitants gave to their city that singular appearance which it retains to this day.

In proportion as a people increase in number and power their government must become more complex and more turbulent, unless it has originally received so pure a form that all its constituent parts are subject to one regular movement, which it is not in the power of any of these parts to interrupt.

The tribunitian authority was sufficient to regulate all the islanders while their number was confined; but it ceased to be so when multitudes of strangers flocked thither, and brought with them their passions and their desire of domineering. The mutual accord which had reigned among the tribunes was now broken: each of them willing to govern despotically within his island endeavoured to prolong his continuance in power; and by exciting dissatisfaction in the people under his jurisdiction against those of the neighbouring islands, the general assemblies were omitted, and there was no longer any centre of power.

The

The Slavonian pirates took advantage of these divisions for disturbing the commerce of their rivals; they in part destroyed their marine; and if they had been allowed to proceed, the Venetians must have been reduced to the most deplorable distress; but their extreme danger awakened them: it was agreed to convoke a general assembly to meet at Heraclea, whither each island should send deputies for adopting some new form of government.

In this assembly, the most numerous and most solemn which had ever met since the establishment of the republic, the patriarch of Grado who was endowed with great eloquence, the more impressive from his high reputation of morality, convinced all those who heard him, “that a plurality of chiefs was
“a source of division: that the tribunes instead of
“watching over the safety of the republic had torn
“its bosom by their rivalry, and exposed it to the
“danger of becoming the prey of its barbarous ene-
“mies: and that they might easily have repressed
“these invaders if they had sent against them the
“vessels which ought to be always in readiness for
“guarding their coasts.”

The patriarch then explained the advantages which all the citizens would enjoy from having one chief, who should be the centre of the public authority, and who would devote himself, without being troubled or contradicted, to the interest of the state. “You have (said he) in this assembly a great num-
ber

“ ber of persons capable of performing what I pro-
“ pose : hasten to chuse one who shall take into
“ his own hand the reins of government : give
“ him not the name of *king*, but the simple one of
“ duke, which is more suitable to the man who is
“ chosen to be your chief, not your master. Let
“ this duke have the power of assembling the na-
“ tion when there shall be occasion : let him appoint
“ the tribunes who under his authority must admini-
“ ster justice in the islands ; and let his tribunal be
“ the supremetribunal to which appeal shall be made
“ in the last resort. Chuse a man sufficiently ge-
“ nerous to prefer invariably the interest of his
“ country before his own : sufficiently impartial to
“ extend his care alike to all the citizens ; and suf-
“ ficiently master of his affections not to shew any
“ regard to the ties of consanguinity or friendship
“ when acting for the public good. Behold (add-
“ ed he) the only means of re-establishing this
“ state and preventing its fall.”

This discourse which was unanimously applauded, made such an impression that the people proceeded immediately to the election of a chief : and the majority of suffrages being in favour of Paul-Luke Anafeste, a citizen of Heraclea, universally esteemed for his wisdom and probity, he became the first duke of Venice, a title which by corruption has been changed to that of *doge*.

Thus ended the tribunitian form of government in Venice, after it had prevailed there above two hundred years. The ducal government, as it was then instituted nearly approached the monarchial ; for the first doges disposed of all places, and directed every thing without consulting any persons but those counsellors who were chosen by themselves : and it belonged to the doges alone to treat of peace and war.

“ It must have been (says the Abbé Laugier)
“ an excess of all those evils caused by a confused
“ democracy that could produce such a surprizing
“ revolution among these republicans, the extra-
“ vagant enemies of every thing which had the
“ air of servitude.”

By some singular fatality we always find that if the people know not how to restrain themselves within the bounds of well regulated liberty, the men whom they invest with sovereign power are scarcely ever disposed to keep within the limits of reasonable authority : and as on one side free people always tend to licentiousness, on the other every chief tends towards despotism : from whence it results, that the government which can at the same time hold the people in obedience to the laws, and the chief in the execution of them ; and which makes of those laws the centre of common happiness and reciprocal safety, may pass for a chef d'œuvre of human creation.

tion. We shall soon be able to judge whether the Venetians had attained that important end.

The first doge justified by his prudence and his firmness, the choice which had been made of him for restoring order and peace to the republic. Upon his fixing his residence at Heraclea that city became the capital of the state which we call Venetian, though it had not at that period received the name.

The islanders who were no longer republicans now that the sovereignty was centered in one chief, had still reason to applaud themselves for changing the government during the reigns of their first doge and his successor. Under Urso the third doge, they were covered with laurels by the taking of Ravenna which they wrested from the Lombards, and afterwards gave it up to the exarch who governed in Italy in the name of the empire.

Inflated by success, the third doge rendered his authority so odious, that he revived in the Venetians the sentiments of liberty : they assailed the tyrant in his palace, and avenged by his death the abuse he had made of his power.

The government of Venice now underwent another sudden revolution. The conduct of the last doge had effaced from the minds of the people the happiness they had enjoyed under his predecessors ; and it was agreed after much deliberation, to substitute instead of a permanent chief, an annual magistrate,

who should not be styled either doge or tribune, that he might not recal the remembrance of names become so odious to them, but *master of the military forces*. Five magistrates governed successively under this title: until John Fabricatio the last *master of the military forces* having excited very great discontents by his conduct, the people of Heraclea were guilty of a most atrocious act against him: they deprived him of sight.

The troubles which prevailed at Heraclea determined the republic to convoke an assembly of the states, and to hold it at Malamoco: and the Venetians now disgusted with an annual magistracy returned to the system of a perpetual chief; and elected Theodat son of the doge whom they had put to death. This fourth doge shewed his resentment for the tragical end of his father, in no other way than by removing his residence from Heraclea and fixing it at Malamoco, which became by that means the second capital of the state.

This fourth doge experienced the danger attached to elevation among a people, turbulent and easily imposed upon. A man of factious spirit named Galla persuaded the multitude that the intention of Theodat in causing a fort to be constructed on a river which emptied itself near the isle of Brondelo, was to open a course to arbitrary power. This man so well understood the art of deluding

deluding the minds of the people, who are every where credulous and easily to be seduced, that he soon formed a party formidable enough to attack Theodat, and after putting out his eyes, to elect their leader in his room. But so horrid a crime did not pass long unpunished : the barbarous Brondelo experienced one year afterwards the same punishment ; he was deposed and condemned to exile.

The Venetians were at every election under the fear of seeing their chief usurp too much authority. They associated with Mongario the sixteenth doge two tribunes, and imposed on him an obligation of never undertaking any thing without consulting them. This chief, proud and of an ardent temper, could not endure the curb which they had placed on his authority : he shewed the most perfect disdain of the two counsellors who had been given him ; and conducting himself with as much haughtiness as imprudence he became another victim of popular resentment, and suffered the same deplorable privation which had plunged two of his predecessors in darkness.

Was it not enough to cause the chief whom they wished to dispose to descend from sovereignty into a degraded state ? Could there be a necessity for sinking them in eternal night ? But men were at that period so barbarous, so blind to morality, that they believed it an act of prudence not of cruelty to ravish from a prince or a general the only consolation

lation which remains to the unhappy; the sweet pleasure of contemplating the works of nature and amusing themselves with their wonders. It was in consequence of this cruel stupidity that Louis-le-Debonnaire stained his life by a similar act of barbarity executed on Bernard his relation.

Until the time of the seventeenth doge that dignity had been neither hereditary nor divided. Doge Maurice after having governed the republic with much wisdom for more than twenty years, and having conciliated the affections of the people, demanded as the reward of his services the privilege of associating his son with him in the government: and the Venetians not foreseeing the consequences of such a favour, which might probably make that dignity hereditary which was now elective, consented to it.

It was during the government of these associated chiefs that Charlemagne, conqueror of the Aquitains and of the Saxons, advanced into Italy, marched against the Lombards, defeated them, made their king Dedier his captive; and after sending him a prisoner into France, went to Rome to be there proclaimed emperor and receive the crown.

Doge John son of Maurice did homage to the new emperor, and treated with him concerning the boundaries between the Venetian state and that of Lombardy; and the result was, that the state of
Venice

Venice made no part of the western empire ; and was not of course under the dominion of Charlemagne.

After the death of Maurice, John pretended to the same favour which his father had obtained, and associated his son as he himself had been associated. But these two chiefs being no longer restrained by the counsel and example of Maurice, gave themselves up to all manner of crimes, which they would have been made to expiate by a tragic end, if perceiving themselves no longer able to contend against the general indignation, they had not fled from Venice and taken refuge at Mantua. Obelerio, who had passed some years at the court of France in order to avoid the vengeance of doge John and his son, was elected in their stead : but unfortunately for his country he had so far set Charlemagne against the two chiefs, whom he hated, and had instilled into him such an apprehension of some intelligence between the emperor of the East and the Venetians, as determined that prince to recommend to his son Pepin whom he had associated with him in the empire of Italy, to be very circumspect in observing the conduct of the Venetians.

Pepin who had formed a design of possessing himself of Dalmatia seized that opportunity of assuring himself of their disposition, and proposed to them to detach themselves from the Greeks and to favour his expedition.

The people of Venice, notwithstanding the entreaties of Obelerio, refused to enter into the designs of Pepin ; and perhaps they might behold the new masters of Italy in the same point of view as the barbarians who had rendered themselves masters of the empire. However that was, they paid dear for their refusal : for Pepin gave orders to the troops which he had in Istria, and in Friule, to make every possible effort for penetrating into the territories of these islanders.

The commands of Pepin were but too well executed : the French troops advanced to the cities of Heraclea and Equillo, besieged them, carried them by assault, set fire to them, and reduced them to ashes : and the inhabitants who escaped the carnage were scattered over the territories of Malamoco and Rialta, and in any islands where they could procure an abode.

Pepin appeared satisfied with this vengeance ; until after having forced Nicetas general of Nicephorus emperor of the East to re-embark the remainder of his troops, which had not been cut to pieces before Commacchio, he learnt that the Venetians had given a kind reception to the defeated army, which was repairing its losses among them ; and this rekindled such vengeance in his heart that he resolved to complete their destruction. He experienced in this attempt all the advantage which their situation gave to the inhabitants of Rialta ;
for

for his vessels, imprudently advancing too near the island into shallow water, were stranded when the tide retired, and could not move, while the light vessels of the enemy hovered around them, and overpowered with their darts the soldiers who were shut up in immoved prisons until the returning sea set their vessels afloat, and permitted them to return half destroyed to Malamoco ; where Pepin, who depended on the success of the expedition, became so enraged at finding his hopes disappointed as to be guilty of acts of cruelty towards the inhabitants of every island where he found it possible to land.

A treaty made soon after between Charlemagne and Nicephorus, by which the conqueror of Italy acknowledge the Venetians to pertain to the eastern empire, put an end to the first war of these islanders with France.

The Venetians who had long suspected Obelerio of being more attached to the interests of Pepin than to those of his country, now deposed and sent him to Constantinople ; and elected in his stead the general who had advised the inhabitants of Rialta to make a vigorous resistance, and had commanded the fleet which was victorious over that of Pepin.

This new doge, celebrated in the annals of the republic of Venice under the name of doge Participatio, who could not reside at Heraclea nor at Malamoco, because the one was reduced to ashes
and

and the other nearly ruined by the French, fixed his residence at Rialta, which has been since that time the seat of the doges, and has borne the name of Venice, as capital of the Venetian state.

I shall now sum up the events I have been relating.

I have run through a period of near four centuries ; and shewn a republic, which became one of the principal states of the empire, take birth on lagunes ; increase on small desert islands ; become extended and strengthened by terror ; adopt at first the tribunitian form of government, by which the sovereignty was preserved in all the citizens ; change this constitution so favourable to the multitude, and prefer the authority of one elective chief ; alter this again, and substitute the power of an annual commander ; return to the dominion of one perpetual chief ; endeavour to temper the power of that chief, by uniting with him two tribunes ; and still in almost every instance deceived in its expectations.

I am now come to the the tenth doge. The third was assassinated in his house : the fourth, the fifth, and the sixth, suffered that horrid punishment, which seems to separate man from the creation : the eighth was with his associated son obliged to seek safety by voluntary banishment ; and the ninth was deposed, and conducted to Constantinople. Thus, out of nine chiefs chosen by the people to
be

be their governors, we behold seven who have either perished through the resentment of that people, or at least ended their career of power most miserably : and of their five annual commanders one was not permitted to behold the day which should have terminated his short authority, but was deprived of the light by his fellow citizens.

What a source of reflection is here presented ! If men did but know how to profit by the lessons they may gain from time and from history, how little would they desire to be raised by the people to high dignities ! how much less still to the supreme authority ! And how far preferable would the obscurity of private life appear to that splendour of power, which offends the eyes of envy, and excites so much discontent and hatred !

But these are not the only reflections suggested by the events I have been relating. We perceive by them how very difficult it is for people to form such a constitution as will please them ! The Venetians were not barbarians ; they were enlightened men ; come from the very bosom of the arts and sciences : and yet, in the course of four centuries, they could not find one form of government which could give stability to their rights, their privileges, and their prosperity.

There is one fact which I have not yet mentioned : it is their fidelity to the Eastern empire, from which they received no succours. When Justinian
was

was desirous of sending troops into the West, in order to drive the Ostrogoths out of Italy, the Venetians, favouring his design, transported the army of Narfes; and it was to them that general owed his entrance into Italy, and his successes there. The Lombards laid siege to Ravenna, and took it: the exarch Paul fled for refuge to the state of Venice, and implored assistance to retake the city: the Venetians armed immediately; put to sea; and recovered for the empire that important place.

After the expulsion of the Lombards, Pepin projected the conquest of Dalmatia: he was formidable to these islanders when he solicited their aid to second his views of conquest: yet the Venetians resisted his demands, and the insinuating arguments of their doge; and rather chose to expose themselves to all the vengeance of Pepin, than enter into a project against the interest of Nicophorus, whom they always regarded as the lawful chief of the empire. These are traits which characterize a nation, and which are seldom sufficiently remarked by historians.

I have placed in contrast with this picture of a new born republic, the terrible and alarming image of the destruction of the Roman empire; and shewn that mistress of the world assailed and subjugated successively by five barbarous people, who carried fire and sword wherever they marched: yet still Italy is the most beautiful country in the world;
sq

to true it is, that nature triumphs over all her enemies. Rome herself, buried under her own ashes, sprung up again more noble, more highly ornamented than before; like that fabulous bird, who is said to ascend every time with more resplendent plumage from the funeral pile which consumed her former body.

What is it that has imprinted immortality upon this empire? It is the idea of her former greatness: it is the purity of taste which succeeded to the ascendancy of force: it is the enormous assemblage of her riches which excites the admiration of every foreigner: and it is that respect which is attached to the dwellings of those wise and virtuous men who formed her highest glory. If Rome had had only generals to boast of, her name would have been forgotten with her triumphs; if she had had only legislators, the republic which had given laws to Europe would not have survived by even a more perfect legislation: but she has had orators, poets, historians, and artists, who have not yet been excelled; and she exists by them in the splendour of their genius.

France has in common with Rome, a great part of these permanent ornaments: let her not act with more barbarity towards them than the barbarians themselves did towards Rome: let no sentiments of hatred, of vengeance, of rivalry ever make her citizens forget the reverence they owe to the fine arts: neither let them sacrifice to principles of too
great

great austerity that which constitutes the glory of an enlightened nation: and while they dispute with all the republics of the world the honour of having the most wise establishments, and the most immoveable constitution, let them also dispute the glory of offering to talents, and to the sciences, the most attractive asylum.

Let the traveller after having run through Rome, Naples, and Venice be struck with new admiration at beholding all the establishments of France: let her hospitals give them the idea of more care, and more attention to honest indigence than he has found elsewhere.

Let her prisons appear to him less the sojourn of guilt than the retreat of suspected innocence.

Let the stranger view with surprise the edifice destined for improving the art so necessary for the relief of human sufferings: and be still more highly gratified, by attending the discoveries made there, and the secrets of nature which are there unfolded.

Let him feel more respect at the appearance of her magistrates dispensing justice, than he ever found in examining the external beauty and harmonious arrangements of the temple of the goddess.

Let him forget the museum and the library of the Vatican, as he passes one day through the immense gallery of France illumined by heaven, and tapestried by that rich collection of pictures,

too long buried in obscurity, or exposed to the ravages of time.

Let him render homage to the French stage; and acknowledge its superiority over all others in Europe, while he beholds the representation of her dramatic chef-d'œuvres.

Let him prostrate himself before the images of those great writers of France, whose bold genius led on a revolution in the thoughts of her citizens, which will one day change the destiny of all oppressed people.

May those citizens neglect nothing which can multiply the charms of life, and make the productions of genius, and those of wisdom, concur with the public happiness, for establishing the national glory.

And may liberty, more prolific than the head which gave birth to Minerva, produce at once both the force which repulses enemies, and the grace which attracts allies.

C H A P. XVII.

OF THE CONSTITUTION OF VENICE.

I SHALL continue to blend the history of Venice with its constitution, and point out those events which have led to any changes in the form of its government; because that is the only means of acquainting ourselves with the causes of institutions which might, without such knowledge of the source from whence they sprung, appear extravagant or contradictory to the laws of justice.

I left Venice under the dominion of Doge Participatio. This chief, who had conquered the suffrages of his fellow citizens by the victory he had gained over the fleet of Pepin, governed the republic eighteen years with as much wisdom as firmness. It was under his administration that the city acquired that extent which it has at this day, by embracing within its limits the sixty small islands which lay round Rialto, and forming a communication with them, by means of bridges thrown over the canals which separate them.

The best princes are not secure from hatred and conspiracies. Participatio discovered a plot against
his

his life; and the criminals were detected, and condemned to die. This example impressed such terror that no other attempt was made against him; and this doge had the good fortune, which was then very rare, to have his eyes closed apparently by the hand of nature.

His two sons succeeded him, which shews that the Venetians were not at that time so very far from rendering the ducal crown hereditary. The first son died, after having reigned two years, without disturbance and without glory. The other, after having given proofs of his bravery, and having triumphed over Obelerio, who had returned from Constantinople to dispute with him the dignity of doge, was surrounded by the rebels in a church, carried off, and shut up in a prison, where he died soon after his captivity.

Under doge Tradenigo the republic experienced the greatest misfortunes; and such losses as evince that in the eighth century, it had already arisen to a high degree of power. Basely abandoned by the Greeks, whose fleet they had joined with sixty vessels, in order to attack the Saracens, the Venetians could not alone withstand the efforts of their enemies, and their fleet was almost destroyed.

When the Narentines and the pirates of Dalmatia were informed of this defeat, the feeble condition to **which** the Venetians must be reduced by it embolden them, and they fell in concert on their

flag : but the republic did not cease to resist them, and was soon again in a state to give laws to these plunderers.

The doge Tradenigo governed during thirty years, and might have hoped to terminate his career in peace, but he was assassinated while going to church, notwithstanding the zeal of his attendants, who could not save their master from the fury with which the conspirators fell upon him.

The republic, which had hitherto permitted those to go unpunished whose hands were embrued in the blood of its chiefs, because they were considered only as avengers of tyranny, was so indignant at the outrage which deprived the state of this venerable doge, that three commissioners were appointed with full power to try and punish the assassins.

These triumvirs acquitted themselves with firmness in this important office: seconded by the zeal of all good citizens, they discovered the assassins; arrested and brought them to the place of execution; where the people, impatient and animated by fury, seized upon them and tore them to pieces.

Ursus Participatio, elected after this satisfaction had been made to the memory of the late doge, formed an alliance with Charles the Bald, and was the first who united the arms of the republic with those of France. His son, by repelling the Saracens, who had made an attack upon Grado, excited such gratitude in the minds of the Venetians, that
they

they associated him in the dignity with his father.

On the decease of Charles the Bald, the empire of Italy was separated from the crown of France ; and among the many competitors who contended for it, were Berenger Duke of Friuli, and Guy Duke of Spoleto ; and this contest for dominion renewed in that charming country all the misfortunes from which it had been exempt since the reign of Charlemagne.

While the two principal claimants exhausted themselves in this struggle, for the government of men, who neither knew how to govern themselves or to repel usurpation, a new horde of barbarians prepared to fall upon them. The cold and barren Scythia still contained within its frozen region a colony of monsters, ready to burst from their confines, and spread terror and death over the southern provinces.

A savage people made their appearance all at once in the beginning of the ninth century, which were called the *Hungre*, but whose name has since been softened with their manners. Berenger, upon their approach, determined to dispute their entering Friuli ; but his army was unable to support the shock of the barbarians, who carried with them fire and sword wherever they went.

These plunderers had learnt in their own country that the Venetians were enriched by commerce : and as a desire of booty was the motive of their in-

vasion, it was against that republic they particularly directed their march.

The city of Heraclea, which had been rebuilt under the name of *the new city*, was the first that suffered from the ferocious rapacity of these barbarians: her wealth became the prey of the pillagers, her inhabitants massacred, and her houses set on fire, shewed what was to be expected from these cruel enemies; who, after having exercised the same fury on the other islands, and furnished themselves with barks and boats, which they caused to be built for them, prepared to pass the lagunes, and make themselves master of Venice, where a general consternation was already spread. But the doge Tribuno, unaffected by the terror which surrounded him, had prepared a numerous fleet, amply provided with soldiers and ammunition, and having animated the souls of his men by his words and his countenance, he went out to meet the Hungarian fleet: these savages no sooner saw the Venetians coming towards them than they advanced with intrepidity, and sent a shower of darts amongst them, directed by their ablest marksmen.

The Venetians, long practised in manœuvring their vessels, and accustomed to maintain the empire of the sea by their skill, soon threw into confusion and disorder a fleet directed by ignorance and blind courage: and the Hungarians, broken
in

in all parts, and reeling on their vessels, found themselves obliged to fly from certain death, and leave the sea covered with the bodies of their warriors, and the fragments of their barks, to the victorious enemy.

This signal victory delivered the republic from these redoubtable invaders, who avenged on the provinces of the continent the disgrace of their defeat, and proceeded afterwards to establish themselves at Pannonia, which from them has the name of Hungrie.

I could wish in these historical sketches to bring forward nothing but what did honour to sovereignty: but I find sovereigns so frequently abusing their power, that I know not where to find authorities.

How could the conduct of the Venetians towards their doges, which I have related, be excusable, if what they have suffered from these chiefs were not explained? And yet how is it conceivable that all these examples of severity, of cruelty, exercised on tyrants, have not banished tyranny from a state where she has experienced such vengeance? Never did tyrannical power shew itself more bold, more audacious than under doge Peter Candiano, who repudated his wife, that he might espouse Valdrada, the grand-daughter of Beringer, who brought him in dower large estates, and the property of several towns in Italy.

No doge before Candiano had a guard in his palace, but he assumed one, which rendered him more inaccessible and more absolute. Some of the Venetians incensed at this menacing appendage, cried out, *kill the tyrant and the tyranny*, and advanced towards the palace: their clamours drew together a prodigious multitude, who seeming determined to force the gates, they were repulsed by the guards, who shot at them from within: this irritating the people still more, they possessed themselves of all the avenues, set fire to the palace, and in a little time the whole inclosure was enveloped in smoke and flames. The doge finding no passage by which he might escape, came to the gate of the palace, and conjuring the multitude to spare his life, shewed them his son, still an infant, whom he held in his arms; but it was in vain that he endeavoured to excite their pity for the young victim; the people were inflexible, and in their fury sacrificed both the father and the child.

Although the dignity of doge has so often conducted those on whom it has been conferred to a tragical exit, the desire of filling the highest place in the republic is not extinguished by that consideration in the minds of the chief citizens: so true it is, that the spirit of dominion is inherent in the human breast. In vain may the secret voice of reason warn an ambitious man of his impotence, and of the danger attached to a situation he will be

be unable to support ; he still wishes to ascend the perilous height, though at the risk of being precipitated from thence, and of perishing in his fall. The French may perhaps have one day but too much reason to be convinced of this truth. They will see men without knowledge, without experience, solicit the most difficult and dangerous situations, without considering that they expose themselves to the resentment of the people whom they deceive, and incur the danger of being plunged again with indignation into obscurity, from whence they should never have emerged.

What appears most surprising when we are taking a view of the history of Venice is, to see the people contenting themselves for ages with the conduct of some chiefs and with their own severity against others, instead of endeavouring to limit that authority which they saw so frequently abused.

From the first election of a doge, until the year 1173, if we except the five years in which the course of that dignity was interrupted by nominating the *Commanders of the Military Forces*, the ducal power was almost unlimited : and when that was extinguished, the republican sovereignty resumed all its force.

The people, though submitted to the empire of a doge, had preserved great privileges. They gave their suffrage in the assembly : all magisterial offices were accessible to them ; and, equal in all

other respects to the nobles, they had the advantage of possessing a greater number of suffrages.

It was necessary to win the favour of the populace in order to obtain any honours ; for they possessed the power by their acclamations of conferring even the dogal seat, from whence their insurrections could also make the chief descend.

“ A people (says the Abbé Lauguier) who have
 “ so large a share in the government, find them-
 “ selves free even when they have appointed mas-
 “ ters over them ; and they regard those who
 “ govern them less as sovereigns whom they ought
 “ to obey, than as officers accountable to them,
 “ and who ought to fear them.”

The inferior class of the people do not find it their interest to change this form of government ; because if it produces trouble and anarchy, they enjoy by that means an opportunity of exercising their despotism : if order and justice are the result, they have reason to applaud themselves for their choice : while the sovereign does not wound them by the weight of his power, they will take pride in supporting what they have raised.

This is the reason why extreme despotism in a prince is perfectly reconcileable with extreme licentiousness in the multitude : let the sovereign but amuse them with spectacles, procure them bread, and indulge them in idleness, and he may exercise
 over

over the rich and the noble the most severe authority: he may attack all their privileges; he may make them support all the public expences; and if he says to the people, *I take from them their superfluities, that I may leave you necessities*, his injustice will be always applauded, and woe to him who shall dare to murmur. Fortunately however for mankind, despotism is not a better reasoner than licentiousness: they are two blunderers who have bodies without knowing how to guide them, and by coming in contact overturn each other alternately.

Aristocracy is much more clear-sighted: she considers her course; she observes her enemies; she is cautious, and only advances when it is necessary: she spies out the occasion for making use of her forces; and when she has gained the advantage she enchains both liberty and despotism.

Such has been the conduct of aristocracy in Venice: it was by these manœuvres that she established there a sovereignty which six centuries have not been able to shake.

In 1173 Venice experienced a most dreadful calamity. A considerable armament, which had been sent to sea to obtain justice of the emperor Manuel, was destroyed by the plague: and doge Michieli brought back only seventeen vessels, though he had never come to any engagement. The men disembarked, entered the city, and communicated

communicated to the inhabitants the horrible malady which afflicted them: a multitude of families were soon seized with and died of the plague, and Venice was in danger of becoming a desert. The people, always disposed to attribute their misfortunes to those who govern them, assailed the doge, who received a mortal wound in endeavouring to avoid their rage.

Some citizens availed themselves of this interregnum, and of the general affliction, for proposing a new form of government. There was at that time no permanent tribunal, but a body of forty judges established for trying both civil and criminal causes, and which was named *the forty*. This tribunal was the soil in which the first germs of aristocracy displayed themselves.

The tribunal of *forty* made a law, that every year the six quarters of the city should name, at the feast of Saint Michal, two electors each: that these electors uniting, to the number of twelve, should chuse among all the citizens indiscriminately four hundred and seventy counsellors, who should form a body to be named *the grand council*, which should determine every thing formerly determined by the general assemblies.

By substituting this council, instead of the tumultuous crowd of the people, the multitude were removed from the knowledge of affairs: by changing the counsellors every year, all citizens might entertain

entertain the hope of a place in the council; and by the elections being made in the different quarters, all suspicion of partiality was prevented.

The people, who were not aware that this was the first link of the chain which was preparing for them, gave to these regulations the most universal approbation: and the *tribunal of forty*, encouraged by the success of their scheme, made a second regulation, by which it was ordered, under pretence of hindering the tumult which was apprehended at the approaching election, that for that time only, and without its being considered as a president, twelve electing commissioners should be chosen from among the persons best qualified for the office, who should chuse a doge by vote: and that the candidate who had nine of the twelve suffrages should be elected. The people, at this time sunk in affliction, and who were far from suspecting any design of tearing from them a right of which they had been for ages in possession, acquiesced also in this second regulation.

The aristocracy did not judge it sufficient that they had thus forged a double chain for the people: they thought it necessary to make one for the chief whom they were going to appoint.

The tribunes of the isles formed the doge's council; they were appointed by him; and their advice ~~he~~ was at liberty to follow or reject. The *tribunal of forty* made a third regulation which imported,

proposed, that the grand council should every year name six counsellors, one for each quarter, *without the advice of whom the doge could not do any thing* : so that any command of his which should not be sanctioned by the approbation of these six magistrates must remain without effect. Thus the authority of the doges became dependent on these six counsellors, who were accountable for their conduct to the grand council, who could continue but one year in office, and who were to be to the doge a set of dangerous overseers, substituted for those adulators with which the chief had been hitherto environed.

This last determination was not likely to be opposed by the people, whose rights were in no respect invaded by it : nor could it be contradicted by the doge, since there had not been one elected : besides the nation, restored to its former puissance during an interregnum, had an incontestible right to fix the conditions on which the person who should in future possess the confidence of the people, should be raised to the dogal dignity.

These regulators had the caution to begin by forming the grand council, before they proceeded to the election of a doge : and sixty of its members, who were to be changed every year, were appointed to form the senate where all affairs of state were to be transacted,

The

The members of this new senate, more established, and less dependant on the doge than those who had before performed the functions of senators, still retained the name of *prégadi* (the prayers), a name given to the extraordinary convocations made by the doges on urgent occasions, by sending to *pray* different citizens, according to the degree of respectability which they had in the republic.

The next step was to nominate the six counsellors who were to compose the council of the doge ; and to this council they gave the name of *seigneurie* as being the first representation of the republic. They afterwards named the twelve electors who were to elect the new doge : and each of these commissioners took an oath to pay no regard to any private interest, but to give his suffrage to the person whom he believed to be the most worthy.

A very singular event proved the probity of these electors and the good choice which they had made. In taking the votes, ten suffrages appeared in favour of one of their colleagues named Orio Malipier. This respectable citizen seeing himself elected without expecting the honour, represented to his constituents, that in the situation in which the republic then was, it had occasion for a chief more able than he was to raise her from her misfortunes : that it was necessary to have a man not only well disposed, but sufficiently opulent for defraying those

those expences which the situation of affairs rendered inevitable; and he proposed to have Sebastian Ziani put in nomination.

The electors saw so much good faith, and such purity of intention in the refusal of their colleague; and the citizen whom he had pointed out appeared so worthy of their suffrages that he was elected by their unanimous voice; and thus ended the first election of a doge of Venice by vote.

It is gratifying to meet in history with such features of virtue: we may apply to them the words of a modern writer, and say with him that *they give fresh motion to the blood.*

It was under this new administration that the republic of Venice acquired a degree of splendour which placed her on a level with the principal powers of Europe; and gave rise to that solemn alliance which is now regarded as an absurd ceremony; but the cause of which, as it makes part of the constitution, it is incumbent on me to explain.

The chief of the church, Pope Alexander III. being persecuted by Frederick who had besieged him in Rome, and having been a wanderer through France and many towns of Italy, came to seek refuge in Venice, where he found a safe and honourable asylum.

The republic sent two ambassadors to Frederick to conjure him to restore peace to the church, and

to

to acknowledge its lawful chief. But the emperor consulting only his pride and his hatred of Alexander, replied thus to the ambassadors—"Tell your prince and your senate that Frederick emperor of the Romans demands from them a fugitive who is his enemy, and that if they send him not to me immediately, in good faith I will avenge the insult done me, by besieging them by land and by water; and that I will plant my victorious eagles before the portal of St. Mark."

This menacing reply made Alexander tremble, but it did not intimidate Ziani, who assured him that the republic, which they began to distinguish by the title of *Seigneurie*, was in a condition to support the protection which it had granted him.

Frederick not finding himself obeyed by the Venetians, caused sixty gallies to be armed against them, the command of which he gave to his son Otho. The Venetians on their part lost no time in preparing an armament capable of sustaining the shock of the naval force of the empire; and Otho having shewn himself on the coast of Istrea, Ziani went out with his fleet, attacked the enemy, and was so well seconded by his soldiers that after a bloody combat of several hours, what remained of the imperial fleet was obliged to surrender: and Ziani returned triumphant into port, followed by thirty gallies which he had taken, among which was that which Otho commanded.

The

The pope at the head of the senate and clergy, went out to meet the conqueror; embraced him, and presented him with a ring of gold saying at the same time, “ receive this ring; use it as a chain for
 “ keeping the sea in subjection to the Venetian em-
 “ pire: espouse the ocean with it; and henceforth
 “ every year on this day, let the celebration of this
 “ marriage be renewed by you and your successors,
 “ that all posterity may know, that the Venetian
 “ arms have acquired dominion over the waves,
 “ and that the sea is subjected to you as a wife to
 “ her husbands.”

England, become the enemy of Rome and of its pontiff, has broken with her navy these bonds formed by pride and puerile credulity, and forced this inconstant spouse to become faithful to her. Yet still the doge, mounted on his *bucantaur* every year makes an offering with great pomp of the ring of gold, and gravely addresses the ocean in these words, “ Sea we espouse you, as a sign of
 “ the true and perpetual empire which we have
 “ acquired over you.”

But what gave the finishing touch to the glory of the Venetian republic was to behold, sometime after the victory which its arms had gained over the imperial fleet, Frederick who had threatened to come and *plant his victorious eagles before the portal of St. Mark*, acknowledged in that very church Alex-
 ander

ander the III^d. as lawful pope, and prostrating himself before him.

Thus, under doge Ziani, was the republic sufficiently powerful for granting a safe asylum to the chief of the church; for causing his election, after conferences had been held within its bosom upon the subject, to be pronounced legal; and for conducting Alexander III, triumphant over the hatred of the emperor, to ascend the pontifical chair.

On the decease of this doge it was not easy to determine in what manner to proceed to a new election. There could be no difficulty in subjecting the new doge to the plan of constitution confirmed by the respect which had always been shewn it by Ziani, but the point was how to pass into a law the provisional regulation which had excluded the multitude from the nomination of the last doge.

That it might not appear their intention to establish what had been declared to be only introduced for one occasion, they judged it prudent to make some alteration in the mode; and it was agreed to name by a plurality of voices in the grand council four electors, who in a private assembly should chuse ten commissioners each, which commissioners should elect the doge by a majority of their suffrages.

The votes of all the electors united in favour of that generous citizen who, preferring the interest of his country to his own aggrandizement, declined the

honour of being its chief himself, that one might be chosen more capable of raising the state out of the misfortunes in which it was plunged.

At this time two new magisterial offices were created: the first was that of the three *avvocatori*, who were to discharge the functions of public ministers; to be the conservers of the laws; to proceed rigorously against all those who should dare to deviate from them; to determine, from the nature of causes, before what tribunals they should be tried; to oppose the registering and publishing of all ordinances contrary to the general good; and in fine to be the prosecutors of those who should violate the established order.

The institution of this office was well imagined for strengthening the new constitution: but we shall soon see another created to render it immovable.

The object of this second establishment was to hear and determine all processes between the citizens and foreigners, or between foreigners with each other.

These new regulations were ordered by the grand council without asking the people's consent; and thus did the citizens by degrees lose all direct influence in the administration of the republic; while the doge recovered no part of the authority he had lost.

... The

The aristocracy in the mean time was increasing, and acquiring new force between the two powers which it held chained: but it had not still attained the height to which it desired to rise, and to which it did rise at the end of the twelfth century.

On the death of John Dandolo, the people, become sensible of the injury done to their liberty by the grand council, resolved to recover the right of electing their doges; and with that design they hastened, before the council had named the electing commissioners, to proclaim James Thiepolo, and strongly insisted on the validity of his election: but their new-elected doge, less confident in the clamorous assurances of the multitude, than abashed by the calm opposition of the grand council, dared not believe himself doge; and left Venice to attend in his retreat the issue of the struggle between democracy and aristocracy.

If this man had possessed more courage and more confidence, he might possibly have restored the popular power to its former height: but whoever absents himself from the people will be soon abandoned by them: they must see their idol; his presence inflames their hearts, and cherishes their attachment; but if he removes from their sight he is forgotten. This truth has been exemplified more than once: those who have been followed with transport by the multitude; who have received from them the most flattering titles; have no sooner dis-

appeared, than they have become the objects of the most injurious suspicions ; have entirely lost that ascendancy which gave them so much power ; and, by returning, they would have exposed themselves to the danger of being seized upon in the view of their late adorers, without seeing one individual stand forth in their defence.

The people of Venice, after searching for Thiepolo to place him, in spite of the council, on the throne to which they had raised him, and not being able to find the object of their favour, grew cool in the business, and did not think of electing another ; and the grand council availed themselves of this calm, for proceeding to an election according to the form which it had adopted.

Peter Gradonico, who was unanimously chosen agreeable to the new regulation, avenged most cruelly upon the people the favour they had shewn to his competitor, for he deprived them of all hope of being admitted to the grand council, or of taking any part in the administration, by an ordinance which he caused to be issued, importing that all the members who then composed the grand council should continue to compose it in perpetuity, *they and their descendants*, without any occasion for their being rechosen in future by ballot or any other form of election : thus admission to the grand council became an exclusive and hereditary right.

right in the families of the members of which it was at that time composed.

This daring enterprize against the right of the people, which for ever annihilated their sovereignty, was only one in a train of misfortunes. The republic of Genoa, the rival of that of Venice, had gained in the course of a long war two signal victories over the Venetians, which had spread consternation among the people, and depressed their courage: and when a nation is humbled by its enemies, it is easy to carry oppression into its bosom; for its pride is lost, and nothing seems to meet its view but slavery.

The blow, which had fallen so heavily on the citizens, was deeply felt by many noble families, who were not members of the grand council; and it excited a secret indignation which soon burst forth in a violent manner.

A person named Bocconio, a great partizan of liberty, conceived a design of sacrificing the doge, and exterminating the grand council: he engaged several citizens in his plot, and was preparing to execute it by the means of conspirators, when one of them discovered it to the doge; who, without betraying the least alarm, caused strict but secret enquiry to be made into the affair; and when he had gained all possible information, he laid the matter before the grand council. None of the nobles had any knowledge of this conspiracy: they all

trembled at the sight of such imminent danger, and instantly gave orders for seizing Bocconio and his accomplices, who not having any apprehension of discovery, had taken no precaution to secure themselves. This fortitude in the doge, and this diligence in the grand council saved the aristocracy.

The criminals, when in confinement, acknowledged their guilt : they were tried and condemned the same day, and on the next day they were all executed.

This severe punishment having fallen on obscure citizens only, did not preserve the republic from a still more dangerous conspiracy, which aimed at involving the Venetians in the most horrid civil war.

The excluded families of the noble Venetians always indulged a secret hatred and envy against the doge and the grand council.

Venice which had been so serviceable to Alexander III. which had replaced the chief of the church in his seat, and had merited eternal gratitude from the court of Rome, found herself struck with excommunication, for having opposed the pretensions of Clement V. on the city of Ferrara. A *bulle* from his holiness deprived the doge and the republic of all the privileges which had been granted to them by the holy see ; absolved all their subjects from the oath of fidelity ; declared all the citizens infamous ; incapable

incapable of receiving or bestowing any thing by testament ; of exercising any public jurisdiction or function, under pain of nullity ; and forbid their children, even to the fourth generation, being admitted to any secular or ecclesiastical dignity.

It is astonishing that in such a superstitious age such a *bulle* should not occasion the least trouble in the republic, or even hinder the Venetians from defending the city of Ferrara, and marching against the pope's army commanded by Cardinal Peligrue. But these brave republicans, who had vanquished upon the sea two emperors of Italy and one of the east, were now defeated on land by the army of a pope commanded by a cardinal.

This defeat obliged them to abandon Ferrara, and left them under the prejudice of an excommunication very disadvantageous to their commerce ; for it was not sufficient that they themselves should brave an excommunication, it was necessary that those with whom they had any connexion should brave it also ; for superstition, which involved all Europe at that time in darkness, shut up all ports, broke all ties, and annulled all treaties formed with those who were excommunicated ; and they were considered as persons tainted with some plague, which would be communicated by the least intercourse.

Such was the blindness of mankind in the thirteenth century ! And yet philosophy is calumniated for having opened the eyes of ignorance, and

dissipated stupidity! Nay, she is even accused of occasioning all the evils, all the divisions, to which she is a stranger!

This defeat, and the loss of Ferrara, inspired great disgust against the chiefs of the republic, and occasioned many secret conferences on the new government, to which the people attributed all their misfortunes; as if they had not experienced still severer ones under the ancient system.

The malecontents, who were very numerous, took the resolution of deposing the doge, abolishing the grand council, and putting all those to death who should oppose this last effort of democracy.

Bajamont Thiepolo, son of James Thiepolo who had been proclaimed doge by the people, took upon him to conduct this enterprize to its completion: and many noble families, among which were that of Quirius, entered into the conspiracy. They chose the place de Rialta for the rendezvous of their troops, from whence they were to march to the place de Saint Mark; invest the palace, force the gates, seize or kill the doge, and continue in the palace until they had made all the changes on which they had agreed.

One of the conspirators was to bring a body of troops from Padua; that in case the party, after having possessed themselves of the palace should be blocked up there, this *corps de reserve* might appear

pear at once with a force equal to that of the enemy. The day appointed for executing this plot was the 15th of June 1310, which was not distant; and, in the interval, arms were distributed to all those who were enrolled.

The secret was so well kept, that on the morning of the 14th of June nothing had transpired: but in the course of that day it was observed, that a concourse of people of all conditions stole successively into certain houses, particularly into those of the nobles who were most adverse to the doge. An account of this suspicious circumstance was carried directly to the palace; but it was not until the evening that this discovery was made.

The doge instantly communicated the affair to the principal members of the grand council, apprized them of their danger, enjoined them to apprize their friends immediately, and to assemble armed in the palace before the dawn of day. He dispatched couriers at the same time to the governors of the neighbouring cities, with orders to assemble what troops they had, and to come to the succour of the republic: and thus, in the silence of the night, and in the midst of apparent tranquillity, was both the attack and defence preparing.

The moment now approached when Venetians were to fight against Venetians, and when their country was to turn the arms of her soldiers against the bowels of her citizens.

Scarcely

Scarcely had the dawn appeared when a deluge of rain and hail, driven by the most impetuous wind, and accompanied with incessant flashes of lightning, tremendous claps of thunder, and the most horrible roaring of the waves, became the prelude to this bloody scene.

This tempest retarded the first efforts of the conspirators; but as the day advanced, and the storm still continued, Thiepolo gave the order for marching; and troops of armed men soon moved by different streets towards the place de Rialta; mingling, with the crash of thunder, the sound of their trumpets, and a confused clamour of voices, which added new terrors to the scene. When these troops were assembled in a body, Bajamont gave command for pillaging the treasury and magazines, which was executed with too much heat. This order shewed the plunderer more than the general; it gave time for the doge to put himself in a state of defence; and Justiniani, who had the bravery and the knowledge of a true soldier, having taken the command, made the necessary arrangement, and soon established, amidst this general confusion, the most regular order of battle.

Thiepolo having marched to the place de Saint Mark, the sight of an army drawn up with a courageous aspect to receive his troops did not abash him; and being determined to stake the success of his

his enterprize on the event of a battle, he drew up his forces into several lines.

While he was making this disposition, the doge, desirous of sparing the blood of the Venetians, deputed three nobles of his party to exhort Thiépolo not to dishonour his name by tearing the bosom of his country, but to respect the lives of his fellow citizens: this exhortation had however so little effect, that there wanted not much more to make that conspirator cause the deputies of the doge to be massacred.

There being no more hope of reconciliation, the two parties charged each other with fury, and for many hours the place de Saint Mark was converted into a field of battle, which presented, from the discord of the same people, all the horrors of a combat between two hostile nations.

Fortune, which was for some time uncertain, at last abandoned the side of the conspirators, who began to give way. Justiniani pressed them vigorously, and put them to flight: Thiépolo, seeing his people routed, made his escape with all possible speed.

A party of the conspirators threw themselves on the side of Rialta, and having made a breach in the bridge prepared to defend themselves: but the governor of Kiofa fell upon and put them to the sword.

The

The fugitives were pursued in all quarters, and a great number were taken and put in irons: the rest dispersed, and fled for safety out of the Venetian dominions. Some noble Venetians were found upon the field among those who had fallen on the side of the conspirators, but the greater number of the dead were men of the lowest class.

The next day came on the trials and condemnation of the citizens, whose greatest crime was their having been vanquished: but the triumphant party considered them in the light of enemies to the state, of whom it was necessary to make an example. Those who were found most guilty were condemned to death; and others who appeared to have been seduced into the conspiracy, were either exiled or imprisoned for life. The three nobles who suffered were beheaded, but the obscure citizens terminated their days, in the most ignominious manner, on the gallows.

Thiépolo, who had fled out of the republic, was declared *infamous*, and an enemy to his country; and his house was rased.

It was determined to perpetuate the remembrance of this melancholy event, and to declare the gratitude of the republic, for its escape from such imminent danger, by a solemn feast, which is celebrated every year on the 15th of June.

It was on this occasion that doge Gradonico proposed the naming of ten inquisitors of state, for proceed-

proceeding against all the secret accomplices of the conspiracy; and the council readily adopted a plan, whose object was to make known to them all such persons as were suspected. This new commission, which was to have been only temporary, appeared so necessary in a state, almost continually exposed to the discontent of a multitude still animated by the remembrance of their antient liberty, that it was rendered perpetual; and from thence, according to the Abbé Laugier, arose the redoubtable council of *ten*, “that tribunal (says he) so
“powerful and so detested; whose jurisprudence;
“obscure and severe, sacrifices all individuals to
“the safety of the state; places in the rank of the
“greatest crimes the most indirect faults against
“government; considers all those as accomplices
“in a plot who do not give information of it; and
“makes every person, who is accused before them,
“regarded as a lost man.”

The advantage of combining accounts of the history with the constitution of every state is conspicuous, because it is the events which have happened which give rise to the fundamental laws of every government; and we see throughout this account of Venice, that all the changes which have taken place in that republic have been produced, nay commanded, by occurring circumstances.

The tribunitian power, which was the first, had been suggested and adopted by the situation of the Venetians, persecuted, and obliged to distribute them.

themselves on small islands, which were not then as they are at this day, united with each other.

The abuse which the tribunes made of their power, and the misunderstanding which reigned among them, and which exposed the islands to be successively attacked and ruined by those enemies whom they might have repelled by acting in concert, determined the inhabitants to substitute the authority of one chief instead of this divided power.

The tyrannical domination of that chief, by offending the public liberty, hurried the citizens into those deplorable excesses, which proved fatal to so many doges.

The liberty of the people being transformed into licentiousness, and into habitual cruelty, the nobles took advantage of a calamity, and of the consternation it occasioned, for reducing the influence of the people in the administration, and in the election of the chief of the republic; and for fixing limits at the same time to the authority of that chief. Two doges, more animated with the desire of seeing their country prosper than of domineering imperiously, were so far from breaking down the impediments opposed to their power, that they gave them additional firmness.

On the death of doge Dandolo the people were determined to resume the privilege which had been torn from them, and elect his successor; but the attempt

attempt only removed them further from the attainment of their end; and they lost at that crisis the small share they still possessed in the administration of affairs: for, by a new ordinance, the places in the grand council were rendered perpetual and hereditary, and their hopes of ever arriving at the honour of being members entirely destroyed.

The people rose on this occasion, and armed themselves against the authors of the blow given to their right of representation; but, ill directed, ill conducted in their insurrection, they sunk under the enterprize, and expiated their temerity by the carnage of civil war, and the shame of punishment.

This last success emboldened aristocracy; and all at once there was seen to arise in the midst of the republic a tribunal of blood, the single view of which cast the chill of terror, not only through those who attempted, but through all who meditated the least reform.

Thus it is that circumstances command every thing in republics as well as in monarchies! Never has any state commenced with the same constitution by which it was governed after its aggrandizement; and the best or the worst laws have been equally produced by causes superior to human reason. The French will one day have occasion to see the justice of this observation, in casting their eyes over their own country! How happy then are the people

ple who have, at once raised themselves above the influence of events ; who, superior to all powers, to all immediate advantages, and holding their passions in subjection, can calmly collect their thoughts ; can consider well the country over which they are to extend justice and law ; combine all the means of accomplishing such a general good, and of levelling all obstacles which impede their design ; and who thus raise, on an even foundation, the edifice of public felicity !

It will undoubtedly give pain to sensible minds, to see the property of some individuals sacrificed in France to excellent rules and regular forms ; but ought national glory to fall a victim to transient considerations ? Would not posterity reproach the French legislators with parsimonious weakness, with a puerile condescension, if out of regard to some present interest, they were to violate their first great rule, that of establishing harmony among all the parts of their system.

Let them remember that Europe has fixed her jealous attention on their work ; that it is by Europe they will be judged ; that that judge will not make allowance for the obstructions they have met with, if these obstructions are not overcome ; and let them remember that the object is, restoring France to the situation which she so long held, of the first of nations.

It is not by victories, it is not by conquests that she must at this day acquire that august pre-eminence, for the glory so obtained is as precarious as its source; but it is by good laws, and by a form of government which presents in all points the idea of sublime wisdom.

It were to be wished that in completing such a monument, raised amidst public happiness, all the co-operators had laboured in concert and without passion: it had then been sooner finished; and the nation would already have experienced its beneficial influence; but this they must learn to expect, nor disturb by their impatience the councils of well informed and persevering reason. Let the nation take example from its chief, and imitate his virtuous calmness: they must endure, they must also know how to suffer; for they cannot arrive at legal liberty, without experiencing privations. And shall they have the ingratitude to complain of these, when so many people have, after the sacrifice of their blood, been subjected to despotism? It has cost them less to become free and happy, than it cost these to be miserable and oppressed.

C H A P. XVIII.

OF THE CONSTITUTION OF VENICE.

WE left Venice in a state of agitation, not only from the discontents of the simple citizens, recently frustrated in their endeavours for recovering the share they once had in the government, but from the resentment of those nobles who saw, with much indignation, the places in the grand council become hereditary in other families.

The doge, who had made this change in affairs, perceiving that, while the people could find support from the dissatisfied nobles, there would always be seditions to fear, notwithstanding the watchfulness of the senate and the new inquisitors, issued an ordinance for admitting all the nobles to the grand council, and thus divided the republic into two classes; the one class destined to command, and the other to obey.

From that moment there was a line of demarcation clearly traced between the nobles, and what is called the *people*; and all the indemnification granted to this humiliated order, for the loss of its an-
cient

cient sovereignty, was one honourable appointment, that of chancellor, a place distinguished more by the appearance than the reality of power. This single plebeian, in the midst of nobles, must have seemed in their eyes like a false stone encircled with brilliants:

The excommunication pronounced by the pope against this republic had given it a severe blow, and degraded it in the eyes of the catholic powers: and we may judge of the injury done the state by this terrible sentence, from the humiliations it submitted to in order to remove it.

The doge sent an ambassador to Avignon, where Pope Clement then resided, in hopes of softening his displeasure. Francis Dandolo was deputed on this embassy; and when arrived at the court of the pontiff, he demanded an audience, which was refused him with the most insulting haughtiness: but this generous republican, like another Decius, devoted himself, for the salvation of his country, to the last degree of debasement. He seized the moment when the pope was at table, and, entering with a halter round his neck, threw himself at the feet of his holiness, declaring that he would remain there until Clement had pardoned the Venetians.

History informs us, that the pontiff was so cruel as to indulge his vanity for a considerable time, by keeping the ambassador in this disgraceful situation; at length however he was touched by his

submission, and consented to withdraw the interdict with which the republic was oppressed. The veil was then removed, which had obscured the character of Dandolo, and he appeared in all the dignity of an ambassador.

When we recollect that the Venetians had given an asylum to Alexander III.; that they had exposed themselves to all the fury of Frederick, in order to maintain the chief of the church upon his seat; that they had at last borne him back triumphantly to Rome; and that they had by their courage terminated a schism which divided christianity, we can scarcely conceive how benefactors could stoop to such disgrace in the person of their ambassador; or how the priest, who was enjoying the fruits of their benevolence, could act with so much severity.

While aristocracy, like an enormous Colossus, was thus crushing down liberty at Venice, we have seen two conspiracies produced by expiring democracy: but another attempt for accomplishing the same object produced a very different scene in the republic. It was not in this instance the people who sought to annihilate the council and the senate, it was the doge himself who, at fourscore, conceived the bold design.

In 1355, the doge having received an offence from a noble Venetian, and in a point where old men are most susceptible of affronts, the honour of
a young

a young wife, insisted upon having the offender severely punished.

The *tribunal of forty* not entering into the doge's resentment, contented themselves with sentencing the criminal to two months imprisonment, and one year's exile.

The doge, still more irritated by this decision, which was insufficient to satisfy his vengeance, did not dissemble his anger: it would probably however have died away without producing any effects, if, some few days after, one of the chief artizans of the arsenal, named Isarel, having received a blow from a noble, had not gone to complain to the doge, and demand justice. The old man, who could think of nothing but his recent injury, thus replied to the artizan, "What wouldst thou that I should do for thee? Observe of what insolent writings I have been the subject; and see how little account the *forty* make of me."

"My Lord Doge, said Isarel in his rough language, if you are willing, we will bring all these nobles to reason. Promise that you will second me, and I will render you master of Venice, and then you may punish these gentry as they deserve."

The unfortunate old man had the weakness to accept, instead of rejecting, this proposition: and in the next conference it was agreed, that they should chuse, from among the marines and artizans

employed in the arsenal, sixteen or seventeen chiefs, who should be dispersed in different quarters of the city; that each of these should have orders to assure himself of the aid of a certain number of brave and well-armed men, under pretence of rendering some service to the state, the knowledge of which must be kept secret from the public; and that as soon as they had intelligence that this was accomplished, the blow should be given which was to immolate all the nobles.

Every thing was already disposed, and it remained only to agree upon the signal and appoint the day, which was fixed for the 15th of April.

On that day, when each chief was ready with his troop for action, the doge was to cause the bells of Saint Mark to be rung, as if to give notice of the unexpected appearance of a Genoese fleet. At this signal the conspirators were to hasten to the place before the palace, and to massacre all the nobles who were come to the council.

This plot, concerted with equal art and secrecy, was nevertheless discovered on the eve of the day intended for its execution. One of the chiefs named Bergamassa, much attached to the noble Lioni, and willing to preserve his life, went to him in the evening of the 14th of April, and beseeched him, whatever might happen, not to go out of his house the next day. Lioni, anxious to learn the cause of this request, which Bergamassa would not reveal,

reveal, declared that he would go out the next day, unless he was acquainted with the motive which should confine him. Bergamassa consented to reveal it to him in confidence of secrecy. Lioni, after having discovered the whole affair, and informed himself of all the particulars, thanked his informer; but, instead of letting him depart, when he was about to do so, he caused his domestics to detain him in his house, while he ran to the principal nobles, brought them to the house, and again interrogated the prisoner in their presence. They took down his deposition in writing, and afterwards repaired with him to a convent, from whence they sent circular billets to the *avvocatori* and to the members of the *council of ten*, desiring them to come to the convent without delay, and assist in saving the republic while it was yet in their power.

All these patricians hastened to the place appointed, and Bergamassa was examined a third time before them. Instructions were afterwards sent to the members of the *tribunal of forty*, and to the magistrates of the six quarters, to give immediate orders for all the troops to assemble immediately armed; and also to send detachments to the houses of the different conspirators, to arrest them.

Every thing being thus disposed, the nobles, who were assembled at the convent, proceeded to the palace, in order to place guards at the gates,

and to forbid, under the severest penalties, the bells of Saint Mark to be rang on any pretence whatever.

These measures employed great part of the night, and were not executed without giving some alarm to the conspirators. Many of them, informed of what was doing, prevented by flight the success of the order given for surprising them : but Isarel, author of the conspiracy, and Calendaro his principal accomplice, were not so fortunate as to escape : they were put to the question (interrogated under torture) and executed immediately.

The greater part of those who had been seized were acquitted, because it appeared that they knew nothing of the conspiracy ; but that their assistance had been demanded under pretence of taking malefactors, by order and for the service of the *seigneurie* (the grand council).

There still remained one great criminal to punish. All the depositions which had been taken concurred unanimously in impeaching the doge ; and it was proved that the conspiracy had been planned under his eyes ; undertaken by his consent ; sustained by his support ; and directed by his orders.

Guards had been already placed in his apartment, where they held him confined ; for though his dignity demanded respect, the nature of his crime rendered the observance of it impossible.

So

So extraordinary a cause had never till now come before the magistrates. They however determined to proceed in it upon these principles: “ that the
“ doge although chief of the state, being but
“ the first subject of the republic, ought to be li-
“ able, like all other citizens, to the rigour of
“ the laws, when he renders himself guilty of trea-
“ son towards his country ;” and on these principles it was agreed to try him.

That a trial of such importance might be conducted with the greater equity, the *council of ten* demanded to have twenty senators, but who should have consultive voices only, united with them. They afterwards caused two relations of the accused doge to retire from among them, and then the *council of ten* and their adjuncts verified the charges.

It was already night, when an officer announced to the doge, that he was expected at the tribunal; upon which the old man appeared before his judges in his dogal robes, and submitted to be interrogated: but not being able to invalidate the proofs produced against him, he was obliged to confirm them by the most humiliating confession; after which he was reconducted to his apartment, and the determination of the trial was postponed to the next day.

On the reassembling of the tribunal, all the voices concurring unanimously for a sentence of death, the
decree

decree was pronounced, and the next day (the 17th of April) was fixt on for the execution. Accordingly on that day all the gates of the palace were closely shut, and the *council of ten* went in a body to the doges apartment. They first deprived him in form of the ducal crown; and then, conducting him to the place where the doges are crowned, he was beheaded.

After the execution, one of the members of the *council of ten* shewed himself from a window of the palace, which looks to the street, and holding the bloody sword in his hand, said with a loud voice, *we are come from doing justice on a traitor.*

The gates of a palace were immediately thrown open, and the people flocked in multitudes to view the body of the doge, which remained upon the place of execution until the evening; then it was placed in a gondola, carried without pomp to the place destined for its interment, and this epitaph was inscribed upon the tomb: *Here lies the doge of Venice, who, for endeavouring to destroy his country, lost his sceptre, his honour, and his life.*

Such was the issue of the greatest act of sovereignty ever exercised by the aristocracy of Venice: and the people were no more consulted in the juridical destruction of their chief than they had been in his election

I shall not examine whether the *council of ten* had or had not a right to condemn to death the chief
of

of the republic, though very criminal. If the doge was no more than a first magistrate, the same authority which could cause a senator or a citizen to expiate the crime of treason by death, would equally extend to the chief of the magistracy: but it would have been more generous, in consideration of the old age and long services of the doge, to have deposed him, and condemned him to pass the remainder of his days in a prison.

Aristocracy is always in republics more inclined to severity than indulgence: the only difference between it and popular power is its being more cool in executing vengeance. The Venetian aristocracy soon gave a fresh proof of the justice of this assertion.

In the beginning of the 14th century the Venetians conquered Padua; and Francis the II. and two of his sons were made prisoners. An extraordinary council of *five sages* was formed for the purpose of trying them: and in the proceedings these princes were not considered as vanquished sovereigns, but as persons protected by the republic to which they owed faith and homage, and who had accepted the title of noble Venetians.

The crime of the prince of Carara was his union with the enemies of the republic, by having vowed faith and homage to the government of Genoa, which was considered as real felony; and the prince and his two sons were obliged to appear in the criminal

minal chamber, where they all three cast themselves at the feet of the doge, and the father pronounced these words, *I have sinned, Lord have pity on me.* The doge, after causing them to rise, addressed them in a very severe style; reminding them of all the benefits which the house of Carara had received from the republic, and of their having been all repaid with the most monstrous ingratitude. “ You have (said he to them in conclusion) “ never been willing to depend upon the Venetians “ for your salvation: you will now find your de- “ struction in their just vengeance.”

These dreadful words were but too well verified; the three captives were condemned to death; and the only indulgence allowed them was to suffer in prison, in order to spare them the shame of a public execution. What a melancholy favour!

The tragedy began with the father: his sentence was read to him, and a confessor presented. The unhappy prince, seeing none with him but the priest, indulged a hope of saving himself by putting on the habit of the person left to console him; and he darted upon him furiously with the design of killing him; but the cries of the ecclesiastic, which were heard by the soldiers, brought in the executioners. Carara, becoming more outrageous upon seeing them, seized a chair, and shewed such extraordinary courage and strength that the assistance of the soldiers was necessary for subduing

subduing him, and he received his death, struggling and foaming with rage.

The oldest son shewed no less violence than his father, but the younger resigned himself, and made the sacrifice of life as unavoidable.

Thus these three princes fell victims to the aristocracy, which had arrogated the right of life and death over the chief of the republic, and over the sovereigns whom they regarded as their vassals.

This execution, which the governors of Venice wished to conceal, appeared to many princes an outrage to the law of nations: but the house of Carara had rendered itself so odious in Italy, that the murmurs which were raised on all sides were not followed by any acts of revenge.

These rigorous decisions, and the striking off august heads in consequence of them, added to the terror inspired by the tribunals of Venice; and habituated the people to regard them with dread, while all their thoughts were employed by the fear of incurring their severity.

Yet some plebeian families obtained the favour, in reward of important services, of being raised to the rank of nobles, and of seeing their names enrolled in the golden record. Their admission to the council nourished the hopes of other citizens, and attached them to a country where virtue and disinterestedness might conduct them to the sovereignty.

It is evident that the Venetians have preserved that affection for their country, which attaches republicans to their government, even when they cease to be citizens : because Venice, notwithstanding all her defeats, and the frequent ravages which the plague has made in the state, is still found able to resist the greatest efforts made by foreign powers for her subjugation. This republic has contended with Spain and France under Lewis the XII : against all the forces of Italy : against Hungary and Austria ; and against all the armaments of the Porte.

The Venetians have given an example to all christian powers of the most constant opposition to the court of Rome : they were the first to banish the Jesuits from among them ; and to break the bonds which subjected the religious to the command of a foreign superior : they have also maintained their sumptuary laws, and forced the Barbarians to respect their flag.

The discovery of the passage to China and to the Indies by the Cape of Good Hope gave a severe blow to their commerce : M. de Montesquiou has expressed this truth with that energy and precision, which characterize his writings.

“ The Portuguese (says he) navigating the Atlantic, discovered the most southerly point of Africa, and found a vast ocean which bore them to the East Indies. The Venetians had till
“ then

“ then carried on the commerce of the Indies by
“ the country of the Turks, and pursued it in the
“ midst of insults and outrages. By the discovery
“ of the Cape of Good Hope, and another which
“ was made some time after, Italy ceased to be
“ the center of the commercial world: she was as
“ it were thrown into a corner and there she
“ still remains.”

It was commerce which enabled Venice to maintain her marine, and support the splendour of her republic; while her possessions on Terra Firma supplied her with provisions: but perhaps, even with these advantages, she would not have existed so long under any other form of government: and it is equally probable, that she might have been the prey of powerful rivals if her maritime trade had not preserved to her the empire of the ocean.

It was not the interest of any power to subjugate the Venetians: neither could they calculate to what force of resistance any imminent danger might rouse those republicans, who believe themselves free because they have not a monarch; and who are reconciled to the *council of ten* because it only interdicts conspiracies.

The last conspiracy which happened in this state, and which has been so elegantly described by the Abbé de Saint-Réal, appears to have been a real one, notwithstanding what has been said to the

the contrary by M. Grosley, in a work entitled *A Voyage into Italy by two Swedish Gentlemen.*

This Writer, who has since given us a better work on England, pretends that “ this famous
“ conspiracy was only a stratagem contrived by
“ the Venetians for getting rid of a Spanish am-
“ bassador, and removing some suspected persons
“ at the same time. I one day communicated
“ my doubts (says he) to an *avvocato* to whom I
“ had been recommended; and mentioned wri-
“ tings which I had read upon the subject; he
“ enquired, with some embarrassment, if these
“ writings had been circulated in France, and if
“ I knew the author. As to any thing else, con-
“ tinued he, no person is better able to give you
“ the information you desire than I am. The
“ keeping of the archives of the state is one of the
“ offices belonging to my appointment: I will
“ obtain for you permission from the senate to
“ consult them; and you may convince yourself,
“ as I have been convinced, of the truth of all
“ which has been written by the Abbé Saint-Real.

“ The *avvocato* appointed me to meet him for
“ the purpose of searching the archives; but he
“ did not keep his appointment. When I saw him
“ afterwards he made a multitude of excuses and
“ promises; but these were all I could get from
“ him during the whole month which I passed at
“ Venice.”

All

All that appears from this account is, that the *avvocatore* was too forward in promising to initiate a stranger into the mysteries of the archives of the republic; and that if he did venture to ask permission from the senate, his request was refused. It is therefore not the less certain that Piere de Toledo, governor of Milan; the duke of Ossuna, ambassador from Naples; and the marquis de Badmar, ambassador from Madrid to Venice, did engage in a plot, in the year 1618, the design of which was, to blow up the arsenal, set fire to the palace, massacre the nobles, penetrate into Venetian Lombardy, and entirely destroy the republic.

The mode of procedure at Venice leaves room, unhappily, to doubt the proof of guilt, and consequently to suspect the justice of their executions; but it is not probable that in order to remove an ambassador, whose presence was disagreeable, they should accuse him of treason. Besides, if the marquis de Badmar was innocent, why did he abscond, notwithstanding his ambassadorial character?

If the duke de Ossuna had no concern in the conspiracy, why did he afford an asylum to all the fugitives, and give them his protection?

In fine, unless we suppose the tribunal of Venice to be the most atrocious of all tribunals, was it possible that it could, under pretence of a feigned conspiracy, give orders for casting into the sea, Piere, and Langlad, who had embarked in a Venetian vessel,

and cause several persons, whose papers had been seized, to be strangled, as their accomplices.

However this might be, it is for the honour of states to sacrifice all political considerations to the glory of truth; and not to accuse or condemn any person without throwing upon the accusation and condemnation, all the light which is necessary to shew clearly the crime and the justice of punishment. But it is time to turn our attention to the present constitution of Venice.

The supreme authority rests in the nobles, who are in number about thirteen hundred.

Every noble Venetian when he has a child born, causes its name to be enrolled in a book which is called, *the golden volume*, without which its nobility would not be acknowledged.

Though these nobles are all of the grand council, and though their titles are all the same, yet there is a sensible difference in the rank of their families: The most distinguished class comprehends those old Venetians, whose ancestors assisted in electing the first doge; and from thence they are styled the electoral houses. These are undoubtedly, as M. de Voltaire observes, the most ancient nobility in Europe, since they prove their descent beyond the seventh century.

The second class dates its origin from the epocha, when doge Granedico decreed that the grand council should be always composed of the same families:

families: the members of this class were enrolled by him, and had their names inscribed in *the golden volume*.

The third class is composed of those citizens who, in a moment when the republic had a very pressing occasion for money, purchased the rank of nobles for a hundred thousand Venetian ducats.

Besides those nobles who form the sovereign body, there are noble subjects with the titles of count and marquis; but these, although of ancient families, enjoy not near the same degree of consideration as the three higher classes: no places are conferred upon them; and they are obliged to shew respect to the lowest noble Venetian as to a superior.

No Venetian noble is permitted to go into the service of any king or foreign prince, or even to receive dignities from them.

The manner of electing a doge is so complicated, that it is impossible to do more for bewildering intrigue.

After the obsequies of the last doge, all the nobles above thirty years of age assemble in the palace of Saint Mark, and as many balls are cast into an urn as there are nobles in the assembly: thirty of these balls are of gilt, the rest of plain silver. Each noble having drawn a ball in his turn, the thirty who have drawn the gilt balls retire into an-

Mark ; and his family is not subject to sumptuary laws.

The republic assigns him a revenue of no more than twelve thousand ducats, rather more than two thousand pounds sterling a year ; so that he cannot support the dignity of his rank, unless he has a private fortune ; and yet this pre-eminence, attended with so little advantage, is paid for by some sacrifices.

While the doge is in office, neither his sons or brothers can fill any of the important places of the republic, nor be sent on any embassy. Neither can the doge ask any benefice for them from the pope, nor accept any if offered, save only the dignity of cardinal.

The doge cannot abdicate, but he may be deposed. He is forbid to receive presents from foreign princes. In affairs of state, he cannot do any thing without the *council of ten*, who watch over him perpetually, and have a right to search even in his most private apartment. Death itself does not shelter him from these severe inquisitors. When the doge has ceased to be, they examine whether he has abused that small portion of authority which he enjoyed ; whether he has not sacrificed the public interest to his own ; and whether he has ~~lived~~ conformable to his dignity : and if they discover that he has done any injury to the interest of the state, his heirs are subject to certain penalties.

It

grand staircase, which they call the giant's staircase, stands the *serene signiory*, who place the ducal cap upon his head.

It may be said of the doge, that he is a king in appearance, and external parade ; a senator in power ; a prisoner in the city ; and a simple citizen out of it. He cannot indeed even leave Venice without permission of the council, to such a degree are his rights now abridged.

The coin of Venice bears the name, but not the figure, of the doge.

In the letters of credence, given to the ambassadors of the republic, his name precedes all others, but he can neither sign or affix his seal to them.

The dispatches and letters of ambassadors, and those from foreign princes, are addressed to him, but he cannot open them until some members of the council are present.

He is the chief person in all councils : he can, in all assemblies, even the grand council, make any proposition he pleases, without communicating his design to any person.

In the city of Venice he goes by the side of any sovereign, whoever it may be ; and he never uncovers but before kings, princes of the blood, and cardinals.

He nominates all the prebends of the church of Saint Mark ; and he creates the knights of Saint

The states have not allowed him the right of abdication, lest by threatening to abdicate, he should have some small degree of influence in the senate: but they have reserved to themselves the right of deposing him, that they may hold him to the duties which they have imposed.

In spite of all these shackles, whenever the election of a doge occurs, there are few nobles, few senators, who are not ambitious of rising to this first dignity of the republic; so true it is, that even the shadow of supreme authority is pleasing to mankind. This evidently proves that, let the royal prerogative be ever so much dismembered, while its crown and its mantle remain, there is no probability that Europe will want men enflamed by the desire of wearing them.

The senate, which they call at Venice the *pregadi*, is composed of members of the grand council, and appointed by the council. This senate treats of all secret affairs; all important concerns of state; concludes peace; makes alliances; declares war; sends ambassadors; orders the coining of money; and levies taxes. It is composed of three hundred persons, including what is named the *new college*, the nine *procurators* of Saint Mark, the *six counsellors of the doge*, the *council of ten*, the *censors*, the judges of the *criminal tribunal of forty*, and other ministers of some subaltern tribunals which are invited thither:

The

It will be seen from this account whether it were possible for the most ambitious, the most adroit aristocracy, to have annulled, in a more complete manner, the sovereignty with which the ancient doges were invested. But it was of little consequence to usurp the authority, the difficulty was to deprive the doge for ever of all means of recovering what he had lost ; and in effecting this the deepest art has been displayed.

By the form of elections, all hopes of obtaining the dogal rank by means of intrigue are destroyed. By the mediocrity of the revenue assigned to the doge, he is deprived of the means of corruption. In excluding his brothers and sons from all the principal public offices, and from embassies, he loses the support he might otherwise have obtained through them. By reserving to the senate the power of contracting alliances, of declaring war and of making peace, any intercourse between the doge and foreign sovereigns is prevented : and, as if it was feared, notwithstanding all these precautions, that he might still form dangerous and secret connexions, the city of Venice is made his prison : he cannot go from thence but by permission of the council ; and when they grant him leave of egress, he is no more regarded, in any other place in the republic, than a common citizen, to whom no respect is due.

“ ten reply, that the republic may not be pledged
“ to any thing; and it is very difficult for an am-
“ bassador to obtain a personal conference with
“ any of the members of the republic.

“ If a foreign minister has occasion to write to one
“ of the state inquisitors, he causes the letter to be
“ conveyed to his secretary, who protests against
“ carrying any message, and declares he will throw
“ the letter into the fire, and not speak of it; but
“ by means of some priest, or some spy, who at
“ the same time serves the ambassador and the in-
“ quisitor, the desired answer is obtained.”

It is more easy for a stranger to be admitted to the *pregadi* than to the hall of the college. M. Grosley, during his residence at Venice, obtained this favour, but not until he had been detained some time in the hall, by ballotting for admission.

“ Being admitted (says he) they placed me on
“ the third tier of seats, against the wall which
“ commands the door, where I could see and hear
“ every thing, but was not in the way of holding
“ any conversation.

“ All my thoughts were for a time engrossed by
“ the veneration with which my mind was inspir-
“ ed at the view of such an august assembly. I after-
“ wards turned my attention to the business before
“ the council, the object of whose deliberations this
“ day was the election of a general in the land ser-
“ vice, and some other officers.

“ These

The tribunal which is of most importance at Venice, after the *pregadi*, is *the college* : it is there that all writings, addressed to the state or to the doge, are read ; and there audience is given to ambassadors : it is composed of the doge and his six counsellors, the three chief members of the criminal tribunal of forty, six grand sages, five sages for the department of terra firma, and five sages of orders, which are those who transact the business of the marine.

I shall relate the account given by M. Desmeuniers, who resided in Venice, and observed every thing there very exactly, of the manner in which all matters, relative to ambassadors and foreign powers, are treated in this college.

“ When a minister has any thing to propose to
“ the republic, he sends a secretary to the door of
“ the hall in which the college assembles every morn-
“ ing. A door-keeper ranges all the people who
“ come into the antichamber on one side, except
“ the secretary, whom he causes to sit down on the
“ other side : he then receives his memorial, carries
“ it into the assembly, and returns to the se-
“ cretary this answer, *the college will take the affair*
“ *into consideration.* The secretary then retires ;
“ and some days after a secretary of the college
“ goes to the ambassador with a verbal answer,
“ which is frequently taken down in writing and
“ repeated by him ; but he never leaves a writ-
“ ten

“ with their balloting-boxes, run on all sides from
 “ the throne, crying the name of the next candi-
 “ date. Then, the nobles having resumed their
 “ places, chatted with those near them, laughed with
 “ the children who presented the boxes, and thus
 “ laughing and chatting, put their hands into the
 “ boxes at a horizontal aperture which communi-
 “ cates with both divisions, and dropt a ball into
 “ one of them, without its being possible for the
 “ most subtile eye to discover what passed between
 “ the cases and the hand.”

We may, from this relation, form a just idea of the manner in which all elections are made at Venice.

The dignity most ambitiously sought after, next to that of the doge, is that of the *procurators*. They have the inspection of the church of Saint Mark, the archives of the republic, foundations for the poor, and testaments and guardianships; and it belongs to them to restrain creditors, when disposed to be too rigorous. These procurators are nine in number, their offices are for life, and it is generally from among them that the doge is chosen.

The truly formidable council is that which is styled *the council of ten*; but which should be called *the council of seventeen*, for it consists of ten nobles, the doge and his six counsellors.

The three chiefs, who are named *inquisitors of State*, are chosen every three months by election. Their is no appeal from their decision to any other tribunal;

“ These elections are made by multiplied ballots
“ performed with a celerity which I could not but
“ admire, though I did not well conceive the me-
“ thod: and yet I had studied it in Amelot de la
“ Houffaye, who has descended into all the de-
“ tails of this kind of play, which can only be learnt
“ by practice. All I could understand was, that a
“ certain number of candidates were admitted for
“ the places which were to be filled; that the first
“ secretary of the council called out with a
“ loud voice the name of the candidate’s fa-
“ mily, his baptismal name, and that of his
“ father ; and that each of these competitors
“ were successively balloted for, by the means of
“ young orphans or foundling children, who were
“ cloathed in violet-coloured caffocks, and each
“ carried a box divided within side into two depart-
“ ments: these children walked from bench to bench
“ with their boxes, crying as loud as they could the
“ name of the candidate whose fate that ballot was
“ to determine.

“ All these boxes were afterwards borne to the
“ alcove of the throne ; where the balls, from the
“ green cases for exclusion, and from the white
“ cases, for admission, were separately counted.
“ While this was doing the nobles left their seats,
“ walked about calling to and talking with each
“ other, until upon a stroke given with a wand, a
“ new name was declared; upon which the children,
“ with

lions, which serve as openings, billets to reveal secrets interesting to the republic.

Who can consider, without trembling, a recital of such secret vengeance, of such mysterious acts of cruelty ! Why are they suffered to exist in Venice ? Wherefore do they form the basis of its government ? It is because that government is itself founded on injustice ! It has been established, as I have shewn, without the consent of the people ; and the authority now enjoyed by the nobles exclusively, is an usurpation on the multitude, and on the chief of the republic.

The citizens, despoiled of their legal privileges, have made many unsuccessful attempts to recover them : unfortunately, the extermination of the usurpers has always been one object in their projects ; and these, perceiving that they must preserve the sovereignty, or lose their lives, have employed every possible means of preventing so great a danger : thus every man who has dared to discover a design of making a change in the Venetian government, appears to them in the light of a public enemy, who conspires against their existence, and who must be instantly cut off.

Thus does one act of injustice lead men on to cruelty ; and thus iniquitous laws are the consequence of iniquitous power.

While the aristocracy exists in Venice, *the council of ten* and *the inquisitors of state* must exist ; because
usurp-

tribunal ; and they are specially charged with maintaining the government ; watching the nobles ; and serving as a rampart between the citizens and them. Their power has been much abridged since the year 1762. They cannot now take cognizance of civil affairs, or matters relative to the revenue ; neither can they obstruct the *avvocatori* in the exercise of their functions.

Notwithstanding this limitation, they have still a right, when the whole body is unanimous, to punish even with death whoever they please, provided the person accused be not of the noble order : but they can inflict even on that order any punishment except death. The life of a noble Venetian cannot be affected, without bringing the affair before the *council of ten*, which is not deemed complete but when composed of fourteen members.

The authority of the inquisitors is so much the more redoubtable, as the executions which follow their sentences are always performed in prison. Sometimes the criminal is interred there ; and sometimes the body is exposed between the columns of Saint Mark, with a written label, containing but very vague words ; such as, *for a serious crime against the state*.

These inquisitors have the key of the hollow trunks of the palace of the doge, into which can be thrown, through the mouths of the lions,

C H A P. XIX.

OF THE REPUBLICS OF VENICE, GENOA, LUCCA,
AND ST. MARINO.

I Have shown to what the authority of the doge of Venice has been reduced ; what is the power of the senate, and of the college ; what are the functions of the procurators of Saint Mark ; of the council of ten, and of the inquisitors of state. I must yet observe, that all these different tribunals derive their existence from the grand council, in which the sovereignty resides. It is that which is truly the legislative body, and which confides the executive power to the administrative bodies which are under its inspection ; all whose respective elections it can annul.

The grand council is to the government of Venice what an assembled nation would be to its proxies ; and as this sovereign power is always present ; as it every week employs its pre-eminence, there is no reason to fear that it will suffer its privileges to be usurped, either by the senate, or the council of ten. Thus the whole republic of Venice is now
com-

composed of nobles, the rest of the citizens are but a great appendage, unconnected with the administration; and all to which the ancient houses of the Venetian burghesses can pretend is, to furnish secretaries to the senate, and the different colleges: it is generally from among these secretaries that the plebeian, decorated with the title of chancellor, is chosen.

The church could not have been pleased with the republic of Venice, for having separated from the legislative body the ministers of religion; especially as this separation was not made from a spirit of justice, but through fear of the popes influence in the resolutions of the council.

Of the thirteen hundred nobles, who form the body of Venetian nobility, many of whom are employed abroad in military or political offices, there are not less than five hundred who are pensioners of the republic, and who blush not at receiving from its wealthy members the purchase of their suffrages. They have lately deviated from the law which forbids commerce to that order, many of whom were reduced to poverty by their proud indolence; and a proclamation was issued in October 1784, inviting all the nobles to take part in their own names, and with their capitols, in manufactures, and commercial establishments; and declaring that, so far from losing by these occupations, any part of the honour and esteem due to their rank,

they would be rendered by them more agreeable in the eyes of government.

“ Thus (says Montesquieu on the authority of “ Amelot de la Noussaie) the laws of Venice for-
 “ bid the nobles that commerce by which they
 “ might innocently gain exorbitant riches.” This passage must lead those into error who are not informed of the proclamation I have just mentioned, and which has all the force of law.

The opinion entertained for ages by the nobility of Venice, that there was no profession proper for them but that of arms, is a strong trait of their vanity, and the most ancient families have been degraded by this absurd prejudice. Nobles have been seen there (even those adorned with military distinctions) demeaning themselves so far as to bear up the train of a prelate, and yet at the same time shewing disdain at the state of a merchant who sent ten ships to the Indies, and traded to every quarter of the globe; while others of the same noble class, preferred servitude in the house of a grandee, under the title of Esquire, to the exercise of an independent profession, which required both knowledge and talents.

These opinions, so dangerous to those whom they involve, begin to dissipate before the beams of that reason which is diffusing itself every where; and we may soon hope to find the shame of beggary
 and

composed of nobles, the rest of the citizens are but a great appendage, unconnected with the administration; and all to which the ancient houses of the Venetian burghesses can pretend is, to furnish secretaries to the senate, and the different colleges: it is generally from among these secretaries that the plebeian, decorated with the title of chancellor, is chosen.

The church could not have been pleased with the republic of Venice, for having separated from the legislative body the ministers of religion; especially as this separation was not made from a spirit of justice, but through fear of the popes influence in the resolutions of the council.

Of the thirteen hundred nobles, who form the body of Venetian nobility, many of whom are employed abroad in military or political offices, there are not less than five hundred who are pensioners of the republic, and who blush not at receiving from its wealthy members the purchase of their suffrages. They have lately deviated from the law which forbids commerce to that order, many of whom were reduced to poverty by their proud indolence; and a proclamation was issued in October 1784, inviting all the nobles to take part in their own names, and with their capitols, in manufactures, and commercial establishments; and declaring that, so far from losing by these occupations, any part of the honour and esteem due to their rank,

porting themselves with dignity in those appointments, such as embassies, which require a splendid appearance.

The noble Venetians confine themselves wholly to the naval service : they never enter into the land service ; the command of which is confided to a foreigner, under the inspection of two counsellors, who observe him narrowly, that he may not abuse the power which the republic delegates to him, not without distrust.

There was formerly a very great distance between the degree of the noble Venetians, and that of the nobles of the dominions of Venice on the continent ; but, of late years, there has been a desire of uniting the two bodies : this is not, however, easily effected, as the qualifications required for placing a noble of *terra firma* on a level with a noble Venetian are, to prove his nobility, at least, for two hundred years past, and to possess a revenue of forty thousand franks, so that few are able to profit by this offer.

M. de Montesquieu mentions, with praise, a decision in a dispute for precedency between a noble Venetian and a gentleman of *terra firma*, by which the republic determined that, *out of Venice, a noble Venetian had no pre-eminence over another citizen.* A day will come, when true nobility will require nothing, and yet receive every attention : when patriotic merit may, in vain, decline honours and

and respect, since it will be sought out and led in triumph to the rank prepared for it, by public gratitude.

I need dwell no longer on the republic of Venice to shew the defects of its constitution. We behold there an aristocracy within an aristocracy; the principal body of which is the grand council, since it was that which deprived the people of all influence in the administration, by confining the whole legislative power to an hereditary nobility.

The executive power is placed in this grand council; because the nominating and deposing of the doge rests entirely there; and on it depends the existence of all the administrative bodies, whose elections and operations it may annul; nay, if inclined, withdraw all the power which it confided to them.

After considering this account of the Venetian aristocracy, it is difficult to understand what is meant by those who pretend that if the national assembly of France were divided into two chambers it would be establishing the same constitution which exists in Venice.

If the suspensive, or even the absolute veto, had been granted to the higher chamber, that would not have made it, like the grand council of Venice, a sovereign body; for sovereignty consists not in the single privilege of *stopping*, but in the

power of *ordering*: from whence it appears, that the authors of these opinions, which I have now refuted, were not acquainted with the Venetian constitution; and that they mistook the effect for the cause.

A national assembly, that is the nation represented, cannot create a power superior to itself, because that which is above all, has not the power of raising any thing above itself; but it is possible for human prudence to distrust, through excess of zeal, the consequences of the changes it proposes to establish. In submitting the completion of its decrees to a cool and attentive revision, the national assembly did not intend to surrender its power, but to call forth new light upon the subject: and so far from holding its authority of the central committee, established within itself for revising its decrees, that central committee would hold its authority of the national assembly, since it would have been elected by that assembly, and for a limited time.

This was undoubtedly the footing upon which it was intended to create a second chamber: yet this plan, which might prove beneficial to future legislatures, would probably have proved injurious to the first. But whether it may, or may not be realized in future, the constitution of France never can resemble that of Venice, and it is fortunate that it cannot.

It

It gratifies me, to be able to support my opinion on this subject by that of M. de Montesquieu.

“ In the Italian republic (says the author of *the Spirit of Laws*) where the legislative power, the executive power, and that of judging are united, less liberty is found than in monarchies, and the government has occasion to employ the same violent means, for maintaining itself, as the government of the Turks: witness the state inquisitors, and the trunk into which an informer may at all times cast, in a billet, his accusation. The whole power there is one, and although it has not the external pomp of a despotic prince, its despotism is every moment perceptible.”

It is said that M. de Montesquieu, during his residence at Venice, suffered it to be known that he made observations on the government, and took notes; that in passing from Venice to Fusina, finding himself surrounded with gondolas, which did not appear to proceed, he was seized with fear, and threw his memorandums into the sea: but, if he had brought nothing with him from Venice besides the opinion I have just quoted, his voyage would not have been useless to his country.

M. de Argenfon observes very justly, that if the government is aristocratic at Venice, it is democratic on terra firma. “ In that part of the Venetian state (says the same author) the nobles are dejected and discontented, but the people tranquil

“and happy: a model proper to be shewn to a
“monarchy, where it may be easily adopted, but
“which no aristocracy has been able to produce.”

This difference of government in the same state, proves its not abounding in citadels and arms; for a republic must endeavour to attach its members by affection, when it cannot enchain them by power. Venice has proved the good effect of this wise policy: the provinces, of which it was deprived by the league of Cambray, soon regretted the yoke of their ancient masters, and returned to it with joy.

The Venetian territories are not confined to the possessions of the republic in Italy, they extend into Dalmatia, into Albania, and comprehend many islands in the Mediterranean; among these is the island of Corfu, once so celebrated under another name for the gardens of Alcinous.

The annual revenue of the republic is estimated at about one million three hundred thousand pounds sterling, and is under the management of three governors. In time of war the doge himself, the nobles, and the rest of the subjects, contribute to the public expences, in proportion to their respective revenues.

Though the marine of Venice is not near so formidable now as it was formerly, the state sent against Tunis, in 1788, a naval force of twenty ships, without counting their light Squadron.

What

What I have said respecting Venice, is sufficient to shew the origin of this republic, and the revolutions which have taken place in the government: I shall now cast my eye over some other republics of Italy.

Genoa, which has been so long the rival of Venice, and disputed with her the empire of the sea, presents a constitution which merits attention.

This republic, which could once send two hundred sail of ships to sea; which had possessions in Tuscany, in Sardinia, and in Syria; and which was sovereign of Corsica, is now reduced to a fleet of a few galliots; and her dominions are confined within such narrow limits, that they extend not more than forty-six leagues.

After being under the dominion of some of the kings of Italy, Genoa took advantage of their weakness, and rendered herself independent about the tenth century. A treaty of alliance, made by this state with the Pisans, was soon followed by a long and bloody war between them: which was carried on with so much rage on both sides, that it must have ended in their mutual destruction, if pope Innocent III. had not brought about a reconciliation.

The Genoese, at first all free, all equal, have paid the fatal tribute due from republicans for the liberty they have conquered. Large fortunes amassed by commerce, and their expeditions against the Moors, soon established an inequality injurious
to

to a democratic state, and disseminated those ideas of pre-eminence, and nobility, which produce aristocracy.

Genoa owes to Andre Doria the recovery of that liberty which she lost under Louis XII. and Francis I. and which she still enjoys : and the memory of that generous citizen, by whom she recovered it, is held in veneration.

The chief of the republic bears here, as at Venice, the title of doge, but with still less authority; and the dignity is conferred for only two years. What makes the office worth soliciting is, that the doge, upon quitting his state, is admitted for life to a place in the college of *procurators*, which is there styled *camera*: this chamber is charged with the management of the finances, and the public revenue. The other *procurators*, who are eight in number, are elected for only two years.

The grand council, which forms the general assembly, is composed of all the nobles. Admission into this council cannot be obtained until the party is twenty-two years of age ; and the members are reputed to be elected every year, but the same names, which are those of the nobles, are always called over at these elections.

The sovereignty resides in this grand council; it is invested with the legislative power, and has alone the right of establishing imposts, of making
new

new laws, and of changing or reforming the constitution of the state.

Two hundred members of the grand council form, with the signiory and the other colleges, the *little council*, the province of which is to determine the most important affairs of the state, decide on peace or war, chuse inferior magistrates, and even make laws; provided they do not contradict those of 1576, and that they are approved by two-thirds of the suffrages.

There is in this republic still another council, called the *assembly*; which is composed of the signiory, of the college of procurators, and of a hundred members of the grand council. It is here that all appeals from inferior tribunals are tried.

The executive power belongs to the senate, which is honoured with the appellation of *the signiory*, it is composed of twelve governors, of whom the doge is president.

No man can be a governor, whose name has not been inscribed for at least two years on the register of the nobles; nor can a member be a second time admitted till after an interval of five years. The members are chosen by lot: their names being drawn from an urn containing one hundred and twenty names, which have been deposited there by thirty electors chosen by the grand council and named *examiners*.

These

These governors, upon quitting their places, are elected *procurators*, and fill, as I have said, these appointments for two years.

The *camera*, and the *signiory*, are charged with the direction of foreign affairs; give audience to ambassadors and foreign ministers; expedite dispatches; take cognizance of serious affairs, such as crimes of state; direct military expeditions; and assemble the grand council, whenever they judge it expedient.

To form a clear idea of the republic of Genoa, we must imagine to ourselves an aristocracy of nobles, whose chief, under the name of doge, has no more power than a chief magistrate: they honour his impuissance however with the pompous titles of *most serene and most illustrious prince*, because the emperor Rodolphus granted them to him in the year 1581.

The manner in which they elect their doge is similar to, but not so complicated as, the forms used at Venice.

The doge resides in the palace with two governors, who are spies over him: he has also, like the doge of Venice, guards and an appearance of royalty.

He wears, on days of ceremony, a long ancient robe of crimson velvet or damask, and a red cap of the same stuff, terminating pyramidically, and surmounted with a thick silk tassel.

The

The doge was formerly invested with a crown and sceptre at the time of his installation, but since the republic has ceded Corsica to the French, the sceptre has fallen from his hand, and the crown from his brow.

Before a doge can return to this vain shew of majesty, ten years must have elapsed since his last election. When he quits his office, he remains eight days liable to all complaints which may be made against him; and if any accusation is brought, of so serious a nature that he cannot be acquitted, he is deprived of the honour of being a *procurator* for life.

During the vacancy of the ducal seat, the senior governor performs the functions of doge.

There are at Genoa many magisterial offices of an inferior kind. The most important of these are the offices of the *censors*, or *supreme syndics*, who are five in number, and whose particular duty it is to examine the conduct of the doge, and of all magistrates, upon their retiring from office; and to attend to the maintainance and execution of the laws: they hold their offices for four years.

After the censors come the inquisitors of state, whose tribunal, though severe, is not so formidable as that at Venice; these officers watch over the safety and tranquillity of the state; observe every thing which passes in the city, and even within the houses, in the bosom of domestic retirement; and keep

keep a sharp look out, to prevent plots and insurrections.

All employments are appropriated to the nobles, but they permit citizens to fill the offices of secretaries of state. These three appointments are lucrative, and confer nobility on those who hold them: they may be held for ten years, and are sometimes continued to the same persons.

It is the custom at Genoa, that the criminal judge, whom they call *podesta*, should be a foreigner: and it is also foreigners who administer civil justice. They are chosen from doctors of law of the neighbouring states or universities. Appeal may be made from their decision to a court composed of three doctors of the nation, or of two doctors and one noble: and from thence also there is an appeal to the council, which they call the assembly.

There is, besides the *podesta*, another criminal court at Genoa, which was established in 1576, with laws for directing its decisions. Four judges, who are likewise foreigners, preside at this tribunal, and their sentences are carried to the *signiory* and to the *college of procurators*.

I have endeavoured to discover the motive of this institution of foreign judges, admitted into the bosom of a republic, for deciding upon the interests of the citizens, and passing sentence upon their honour and their lives: and I believe it to have originated in a love of justice. They were desirous
that

that the judge should stand, as it were, apart from those he was to judge : that there should be no connection between them : no tie of fortune, or of relationship, that their impartiality might be more certain.

No exception can be made to a judge when he is once established, because there cannot exist any cause of exception. A foreigner, unacquainted with any of the parties, and instructed by the laws, which must be his guide, is presumed to be their faithful interpreter.

But this foreigner may be corrupted as well as another : or if he is not, when he gives judgment in a tribunal of citizens, his decision may be rendered improper, from the very means which have been used to make it just.

Men take much pains to remove injustice from tribunals, but either baseness or ignorance, prejudice or partiality, soon open it an entrance there. The French are at this moment employed in banishing it forever from a sanctuary which it has too long profaned : may they be so happy as to see their wishes accomplished ! But how can they be assured of finding citizens, wise, impartial, proof against seduction ; and sufficiently firm in their principles, to remain unshaken in the midst of popular commotions :—citizens, who will be willing to detach themselves from all ideas of fortune, from all affections, and be wholly devoted for the term
of

of six years, to the study of the law, and the administration of justice?

I have no fear that candidates will be wanting; but men's aspiring to the right of judging their equals, should be perhaps a reason for denying them that right. Where then shall we find a man penetrated with the duties of a judge; with the virtues which that sacred character requires; with the privations which it prescribes; with the knowledge which it demands; with the study to which it condemns; with the dangers with which it menaces, and with the remorse which it prepares, not for iniquity, but error, that companion of human weakness; where is the man possessed of all these thoughts who will be bold enough to solicit the public suffrage, or even expose himself to the risk of obtaining it?

The office of judge is undoubtedly in a state one of the charges which belong to citizens, but it is the most burdensome; and whoever is not previously sensible of all its weight, is unfit to bear it.

Genoa has an inquisition; but as, like that of Venice, it is subordinate to the senate, and that lay-judges assist there, it is formidable only in name. The continuance of these tribunals is an homage paid by the two republics to the court of Rome: they form a kind of feudal bond, which the remains of superstition dares not break.

The

The bank of Saint George preceded all the banks of Europe, and supported itself in the greatest credit until the year 1746, when it was exhausted in consequence of the Austrian invasion, as there was then drawn at once from its treasury above £. 630,000 sterling. At that unfortunate crisis all its creditors flocked thither in such a manner, that the bank could not satisfy their multiplied demands, and stopt payment. Its bills then lost not only, like those of France, five per cent. but twenty. Its credit has since gradually revived; and this bank is still one of the most advantageous establishments of the republic.

Genoa was very near losing forever both her fortune, and her liberty, in the year 1746. The Austrians having made themselves masters of the city, the empress queen demanded of the Genoese eight millions of livres, besides the fifteen millions which they had already furnished: and she also required money sufficient for maintaining eight regiments, which were lodged in the suburbs and in the adjacent villages.

“On the publication of these orders (says M. de Vol-
“taire) despair seized the inhabitants: their com-
“merce was ruined; their credit lost; their bank ex-
“hausted; the magnificent houses, which adorned
“the country around Genoa, pillaged; the inhabit-
“ants treated as slaves by the soldiers: in short they
“had no more to lose but their lives; and there

“ was not a Genoese who did not appear resolved
“ to make that sacrifice, rather than continue to
“ endure such shameful and savage treatment.

“ The Austrians, who drew both cannon and mor-
“ tars from the arsenal at Genoa, to send into the
“ provinces, made the inhabitants labour at the
“ work ; and the people, though they murmured,
“ obeyed. At last an Austrian captain struck one
“ of the inhabitants who did not exert himself suf-
“ ficiently : the people, who instantly assembled at
“ that signal, became tumultuous, and armed them-
“ selves with whatever they could find : and the
“ men, who never attempted to defend their
“ city, when the troops of the enemy were at a di-
“ stance, now, that they had made themselves ma-
“ sters of it, determined to drive them out.

“ The next day the people gathered in still
“ greater numbers, and ran to the palace of the
“ doge, demanding arms. The doge gave them
“ no answer, but his domestics pointing to an arse-
“ nal, they flew thither, broke it open, and be-
“ ing assisted by a hundred officers, armed them-
“ selves upon the spot. They immediately barri-
“ caded the streets ; and the order into which they
“ endeavoured as much as possible to throw this
“ sudden and furious insurrection, did not at all
“ slacken the general ardour.

“ It seemed (continues the eloquent historian
“ from whom I have borrowed this narrative) as if in
“ this

“ this day and the succeeding ones, the consternation;
“ which had so long sunk the spirit of the Genoese;
“ had passed into the Germans; for they suffered the
“ revolvers to make themselves masters of the gate
“ of Saint Thomas, and the gate of Saint Michael;
“ and the Austrian general negotiated when he
“ should have fought.

“ The Germans in fine depending on the under-
“ standing which they had in the city, advanced
“ to the gate of Bisagno, by the suburb which bears
“ its name, but they were received by volleys from
“ cannon and musketry.

“ The inhabitants of Genoa were then become an
“ army, the drum was beat in the city in the name
“ of the people, and all citizens were ordered, un-
“ der pain of death, to come forth from their
“ houses armed, and to range themselves under the
“ standard of their respective quarters. The alarm
“ bells were rung at the same time in all the vil-
“ lages of the country round, and the peasants as-
“ sembled to the number of twenty thousand. A
“ prince of Oria, at the head of the people, attack-
“ ed the Austrian general, and forced him to fly
“ with his nine regiments, leaving a thousand dead
“ on the field, and four thousand prisoners, with
“ their equipage and magazines; and, pursued by
“ these simple peasants, they were obliged to fly
“ from post to post, until they reached Gave.

“ Thus did the Austrians lose Genoa, by having
 “ too much despised and oppressed the people.”

Is there not in the account of this revolution many traits of that which has happened in France? The same patience, the same submission in the people, succeeded by an impetuosity as sudden : the same desire of having arms ; the same ardour ; the same courage in attacking forts ; the same order in the midst of disorder : similar inaction in the opposite party ; and liberty to be gained at once, or slavery in the extreme ?

What appears most astonishing is, that the Genoese, who had delivered the republic from the Austrians, did not deliver it from the aristocracy of the nobles. The people had chiefs, but these chiefs were secretly directed by the senate : thirty-six citizens were chosen to govern, and to them were added four senators : these four nobles communicated everything to the senate, which appeared not to mix in the government ; and even caused this revolution, which they had fomented at Genoa, to be disavowed in their name at Vienna, from an apprehension that it would be revenged most severely. The minister of Genoa declared, that the Genoese nobles had no part in the revolution, which they styled a revolt.

By this Italian policy the senate reserved the means of re-extending their authority over the people, if they should repel the Austrian yoke, and

at

at the same time guarded themselves from the fate of the vanquished, if the Germans, aided by the Piedmontees, should make themselves masters of Genoa.

France, who was interested in the war, prevented this misfortune, and restored peace to the republic. The troops which were conducted thither by the Duke de Boufflers, and which were afterwards under the command of the Duke de Richlieu, shut out the Austrians, and contributed to reinstate the doge and the senate in their ancient powers: but neither the one nor the other ought to forget, to what excess of courage a sense of oppression roused, all at once, minds habituated to obedience.

A spirit of commerce and desire of gain are the distinguishing characteristics of the Genoese; and they have endeavoured, by their manufactures, to make up for the immense prejudice they sustained by the loss of the Levant trade, and of their settlements which were taken by the Turks. They are concerned in the public funds of all the principal states of Europe; speculate, from good intelligence, on all the occasions of the different powers; accumulate the interest, and form new capitals, which they again place out in loans; and render by this means all empires their tributaries.

This turn of thought and affection keeps at a distance all ideas of a revolution. The banker, or

the negociator, who is busied in counting his gold and revolving in his mind all the business of commerce, thinks not of the vices of government: a bankruptcy affects him much more than an act of injustice towards a citizen: he finds himself sufficiently free, if he enjoys the liberty of gaining; and the insurrections of the people, which endanger his fortune, and expose his house to pillage, appear to him the most dreadful of all calamities; while the people who behold their wealthy citizens submit without murmuring to be excluded from the high magisterial offices, cease to desire what they do not desire: and as these situations, neither lucrative nor permanent, confer nothing but barren honour, even the dignity of doge is scarcely sought after by the nobles at Genoa. Who would wish to be exalted for two years into the highest place, which bestows no power, to descend after that period to the rank of a simple procurator? This indifference to the first dignity is one of the safeguards of the constitution.

It is evident, from all these circumstances, that liberty is not to be found either at Venice or at Genoa; for she resides not with the doges, who are slaves confined in golden fetters; she takes not her abode among the nobles, although the sovereignty is centred in them; because they are kept under, at Venice by the *state inquisitors*, and the *tribunal of*

1623.

ten; and at Genoa by the *supreme syndics*, and the *inquisitors*.

Neither is liberty the companion of the citizens in either of these republics; since they are equally submitted to these supreme authorities, have no share in the administration, and perceive the weight of a sovereignty, so much the more humiliating as its members are nearer their own level, and as it has not the splendor of monarchy; which, by its pre-eminence, consoles the subjects for their inferiority, and makes them more disposed to render to the chief the homage which is his due.

I shall pass from these two principal republics of Italy to two others, which have been spoken of by our modern politicians, because their constitutions are, in the eyes of the political philosopher, what plants, insects, and shells are to the naturalist: objects of the largest or the smallest dimensions obtain from them an attentive investigation.

After their example, I shall examine the republic of Lucca, which is, if I may so express it, an aristocracy in miniature. It is situated on the borders of that part of the Mediterranean which is called *mer de Toscano* (the Tuscan sea) and it joins the states of the grand Duke of Tuscany and the Duchy of Modena: its length is about forty Italian miles, and its breadth fifteen.

There are two things remarkable in this republic; they are, that in no part of France or Germany the

same number of people are found on the same extent of ground ; and that there is seen there neither poverty, beggary, nor idleness.

Whence is it that, according to the report of M. de le Lande, and of all other travellers who have visited the republic, each inhabitant is well cloathed, well lodged, and well fed ? Whence is it that their ground, the fertility of which exceeds not that of many other places, tilled by fewer hands, offers to the view a scene of high cultivation, which charms no less from its variety than its abundant produce ? The causes are founded in the wisdom of its government, though an aristocracy : a form which is not incompatible with public welfare, when the magistrates pay regard to nothing, in the exercise of their authority, but the due administration of justice ; and to the discharge of their duty, as protectors of every individual united under the power with which they are intrusted.

The legislative authority exists at Lucca in a senate composed of one hundred and fifty patricians : at the head of which are a *gonfaloniere* (chief standard bearer) and nine counsellors called *anziani* (elders) who are removed every two months ; and these magistrates, during their short regency, reside in the palace, and are maintained at the public expence. The senate, or grand council, is changed every two years.

The authority of the *gonfaloniere* is confined to the simple privilege of making proposals to the senate.

nate. He enjoys, during his transient reign, the title of prince of the republic, and with it all the honours of sovereignty.

The state is styled *the serene republic of Lucca* ; its arms are two *bends*, between which is inscribed, in characters of gold, the word *libertas*.

Justice is administered by five auditors, one of whom is styled *podestà**, and he determines criminal causes ; but all decisions must be confirmed by the senate.

This republic comprehends one city, and one hundred and fifty villages ; and its population is computed at one hundred and fifty thousand souls ; in which there are said to be twenty thousand men capable of bearing arms.

The military force of the state is very inconsiderable ; it is composed of five hundred regular troops, and about seventy Swiss, who serve as guards to the *gonfaloniere* and the nine *anziani*. It is scarcely creditable that the revenue of this republic can amount to four hundred thousand crowns, if, as is pretended, each subject pays but five livres (four shillings and two-pence) per head, in lieu of all taxes ; because, out of one hundred and fifty thousand subjects, there must be, at least, twenty thousand children, and old and infirm persons, none of whom pay this tax.

This little republic has, for two centuries, main-

* This word, which means power, is used to express any powerful magistrate.

tained: its independence, and affords a lesson of wisdom to the greatest empires. Its domains are so situated that they cannot be extended; which is a circumstance in its favour; and property is so equally divided, that there is scarcely any difference of fortune among its citizens. One of the greatest evils which could happen to this people, would be the establishment of some man of wealth; who, wanting a park for walking in, extensive domains for the amusements of the chace, and a numerous retinue of servants to support his luxury, must purchase many of their small estates to unite in one: consequently the little farmers, so happy in moderate possessions, would soon become poor hirelings, exposed to the harshness of a rich master, and to the insolence of his domestics; while their children must be reduced to beg their bread, instead of receiving it from the earth, that generous mother, whose bosom still pours forth its abundance for those who take no pains to obtain her favours.

I shall still pursue my observations, and enquire whether the appearance of democracy is not to be found in a state yet smaller than the republic of Lucca. Rousseau, in his *Social Contract*, speaks of St. Marino, though he does not mention it by name.

This republic has existed for thirteen centuries: it was founded by a hermit, to whom a certain dame, called *Fellicity*, ceded the land on which the mountain stood which this solitary had chosen for his

his

his residence. Many persons came to live on the estate of the hermit, to which they gave his name; and their only rule of government was those laws which are inscribed by nature in the hearts of all mankind. The little republic, thus formed, purchased, in the year 1100, the castle of Pennarosta; and seventy years afterward that of Casolo.

The government of this republic resides in a council of forty persons, half of them chosen from noble, and half from plebeian families: so that it certainly is not a true democracy, but rather a mixt aristocracy; and yet such is the form which men now class among democratic governments. Whenever an affair of importance is to be considered, an assembly, which they call the *aringo* or grand council, is assembled, and this is composed of one member taken from every family indiscriminately. Thus the sovereignty resides in all the families, each represented by one of its members.

The principal magistrates bear the title of captains, and are changed every six months.

Civil and criminal justice is administered by a foreigner, a doctor of laws, who is chosen for his reputation of knowledge and equity; and he is removed every three years. The republic also maintains, at the expence of the state, a foreign physician, who is charged with the care of all sick persons.

The

The city of Saint Marino is defended by nature, being accessible only on one side: it contains near five thousand souls.

As this state sprung up in Italy, it has not been able to exclude religious luxury: there are in it five churches and two convents; and a third convent just without its limits: there are also three castles, which tower above their habitations. The whole territory comprehends only the mountain on which the city of Saint Marino stands, and some hills cultivated by their inhabitants, who, with those of the city, make seven thousand people; and these are the only democrats in Italy.

I have now shewn the constitutions of four republics; in three of which aristocracy domineers without controul; in the fourth democracy may be said to breathe. A free mind could not enjoy itself either in Venice or in Genoa; but whoever makes the happiness of liberty consist in the security attached to a peaceable life, and in the innocent exercise of their faculties, might perhaps sit down very contentedly in the republic of Lucca. As to Saint Marino, what man, endowed with a taste for the arts, who takes delight in communicating his thoughts, and receiving in turn the thoughts of others, and whose imagination is gratified by the contemplation of august objects, could confine his existence to the sphere of such a democracy? Liberty is beyond dispute a valuable possession:

session: but if it must be purchased by the sacrifice of all enjoyments; if we can only collect its fruits by condemning ourselves, to pass the scanty portion of life, which nature has assigned to man, upon a rugged rock; by submitting to share no society but that of ignorant vine dressers; to behold no scene but that of the surrounding hills; to have our attention called to no occurrence but the arrival of some passing traveller; and to receive, in compensation for the varied scenes, the succession of events, which are continually presented in a large city, nothing but the privilege of giving our free vote in an *aringo*, I believe it will be agreed, that few men are so enamoured of democracy as to purchase her favours at so high a price.

But I shall pursue my researches still further, and endeavour to discover liberty resting in an abode well worthy of her adorers.

Alas! why is it that, when this sacred power makes the most generous efforts for returning to a people, on whom, in their earlier days, she smiled, that people, instead of the flowers with which they ought to strow her way, present to her a path distained with blood, and spread with noisome carcases? Why, instead of charming her to their abodes by songs of joy, will they run the hazard of scaring her forever from them, by the roar of tumult and the shrieks of death.

But

But let not the French deceive themselves; liberty will never reside among them, until she can find there a temple which she may inhabit in safety. The foundation of that temple is already laid; already many of its columns are seen ascending; but the form of the edifice is not as yet discoverable; and a storm may retard its erection, by damaging what has hitherto been done. If discord should prevail among the labourers employed upon this work; if, instead of hastening to use those stones, hewn ready for their purpose, which lie scattered around, they should convert them into weapons of offence; into a rampart to screen themselves from danger; what would become of those who encouraged and protected their labours? And what would be the joy of those selfish beings, who sigh day after day at beholding their projects confounded, and their hopes destroyed? But away with these melancholy ideas: the dark rumours spread by calumny deserve not the faith of Frenchmen; they should be insensible to idle terrors; and remain assured, that no passions, no rivalships, will be able to triumph over the zeal and perseverance on which the fate of their empire depends.

C H A P. XIX.

OF THE REPUBLICS OF RAGUSA AND HOLLAND.

SINCE I have stopt to take a view of two small republics, I shall, before I proceed to examine the state of Holland, cast my eye over that of Ragusa, which presents a very extraordinary spectacle, that of liberty supported by despotism.

All that we can collect of its origin is, that the city and territory of Ragusa, anciently called Epidaurus, having been ruined by the Goths, the inhabitants after the retreat of these destroyers of cities, returned to the place from whence they had been driven.

This republican government traces its origin still further back than that of Venice; and the state can boast of being the oldest ally of the Turks. Warned, by a consciousness of its weakness, of the necessity of procuring support from some powerful protector, the people of Ragusa sent two ambassadors to sultan Orchan, who then held his court at Brusa. The ambassadors offered their presents, and desired assistance and protection for their republic; and the sultan, flattered with ho-
mage

mage so little expected from a state so remote from his empire, accepted the tribute which was presented him; concluded a treaty with the Ragusans; granted them the immunities they solicited; and signed the convention, by applying to it his hand after dipping it in ink, according to the custom of the times.

This singular signature, which inspires us with no very high idea of the penmanship of their highnesses, is to this day held in the greatest veneration at the Porte: and the successors of Orchan would believe it an offence to their great prophet, if they were not to fulfil a treaty thus solemnly subscribed by an ancient sultan. The expence-incurred annually by this state, in sending a tribute, making presents, and supporting an ambassador to the Porte is said to amount to five thousand sequins.

Montesquieu, in speaking of Ragusa says “The chief of this republic is changed every month; the other officers every week; and the governor of the castle every day.”

The chief is styled *rector*; he is elected by vote, but sometimes by ballot: he resides in a palace and wears a ducal robe. His dignity is not oppressive to the republic, which pays him only five ducats for his reign: but if he is one of the *pregadi*, that is, one of those magistrates who judge affairs finally, he receives a ducat per day.

The

The grand council in which the sovereignty resides is composed of all the gentlemen in the republic who have attained the age of twenty years. It is this council that elects the sixty nine members who compose the council of *pregadi*.

To these *pregadi* pertains the management of all affairs relative to war and peace: they also dispose of all offices, and receive, and send ambassadors. They hold their employment for a year.

The *little council*, which is inferior to the *pregadi*, is composed of thirty gentlemen. They have the direction of all matters of police, and of commerce; transact the business of the public revenue; and try and finally determine causes which are not of much importance.

Five *proveditori** form a body of censors over the administrative powers. Their sanction, declared by a majority of their suffrages, is necessary to give validity to the operations of those who govern.

In, all civil affairs, and particularly in those where debts are the matter in dispute, six senators assume functions similar to those of the *consuls* (a kind of sheriffs) in France; but there lies an appeal from their sentence to the little council, and sometimes to the *sovereign* which is the great council.

There is a particular judge for criminal affairs, but he certainly does not pronounce a definitive sentence in other causes. This inconsistency is

* From *provedere*, which not only signifies to provide but to overlook any business.

not unexampled in France: a council in Artois, whose decrees in civil causes might be invalidated by the parliament of Paris, pronounced sentence of death without appeal; as if decision upon life and honour were of less importance, than those which determined pecuniary concerns.

In the year 1763 the republic of Ragusa, notwithstanding its weakness, had the courage to oppose the power of the Russians, who threatened to bombard the city. The object of Russia was to establish there a Greek church, in order to oblige a party by whose aid she hoped in time to detach Ragusa from its alliance with the Turks. “ I
 “ am ordered (said count Ragni, who was deputed by the republic to confer with count Orlov on the occasion) not to listen to any such proposals. Her imperial majesty may bombard Ragusa; but to the moment of its destruction there shall be no Greek church in my country: and my sovereign will accept no proposition contrary to its treaties with the Porte.”

When we consider that it is a state whose guard consists of one hundred and sixty soldiers which gives this proud reply to an empire like Russia, we are struck by such heroic firmness. It is certain that courage so exalted can only be produced by a republican spirit.

If Ragusa derives great advantage from the traffic she carries on, even in the bosom of Turkey, the

the Porte receives benefits no less important from the alliance of this republic: for in time of war Ragusa furnishes the Turks with both arms and ammunition.

The continual fear entertained by the Ragusans of being surprized by some enemy, renders them extremely watchful; and it may be said of them that they lock up liberty, for their gates are open only on certain hours of the day.

“ The senate of Ragusa (says Recaut) name
“ every evening the governor of the principal
“ castle of the city; and, without any ceremony,
“ he is called perhaps out of the streets, where he
“ is walking without knowing any thing of his
“ appointment: a handkerchief is then thrown
“ over his head, and he is led blindfolded into the
“ castle, where no person suspects who is to com-
“ mand that night.”

The Catholic religion prevails in this republic: but it has imbibed a spirit of benevolence from the soil; and the Armenians, and Turks, are allowed the free exercise of their religion.

The aristocracy of the nobles is more visible at Ragusa than in any other place, because the *rector* and the nobles alone are permitted to be cloathed in silk. This privilege is however granted to the doctors, though simplicity ought to be the first ornament of knowledge.

This republic has had the address to preserve its independence between Venice, the Ottoman power, and the house of Austria : but its ally, the Turk, is no longer able to defend himself, and there is nothing to preserve it from subjection, unless its own wise policy should find a means of disarming the resentment of Russia, and stopping the progress of Austrian ambition.

I have lately descended from the republic of Venice to that of Saint Marino. I am now going to soar again, from the republic of Ragusa to that of Holland.

In tracing the political history of states, we always discover the same truths. Societies seem destined to experience two contrary movements : despotism impels them towards liberty ; and anarchy drives them on to servitude.

Holland received the former impulse under Philip II. heir of Charles V. and it is to him she owes the advantage of figuring in Europe under the form of a republican power. She has also felt herself affected by the latter ; and a little more would have placed her at this day under the dominion of an absolute monarch.

The Hollanders derive their origin from a people known in history by the name of the Batavi, who, after being associated with the Romans, and aiding them in the conquest of Gaul, fell themselves under the empire of the Franks.

A new

A new revolution detached Holland from France, and rendered it a fief of the German empire; for the sovereignty of these provinces coming into the house of Burgundy, and an heiress of that house espousing Maximilian I. they, as well as all the Low Countries, became annexed to the dominions of Austria.

The son of this marriage, Philip I. king of Spain, governed all these dominions peaceably; but Charles V. the grandson of Maximilian, raised them to the height of their glory. “ He was (says the “ Abbé Raynal in his history) particularly beloved “ by the Flemings, whom he favoured. Bruffels “ was the place of all his dominions, where his “ court was the most beautiful, the most free, the “ most numerous. It was the centre of his empire; “ where the Germans, the Italians, and the Spa- “ niards all enjoyed equal attention, and no pre- “ eminence.

“ Charles had discovered, very early, that the “ Flemings were incapable of accommodating “ themselves to the temper of their masters, and “ he had the address to accommodate himself to “ theirs. Philip II. disdained to stoop to this con- “ descension; and the talents, the traits of charac- “ ter, and even the virtues which he displayed in “ the Low Countries, were all foreign to the ge- “ nius of the people. This prince, who sought to “ reign in Europe as he had reigned in Asia, con-

“founded the pride with the glory of the diadem ;
 “and his own rights with his usurpations.”

It was in consequence of this imperious spirit, which despises the privileges of nations as things of no account, that Philip resolved to abrogate all laws ; impose taxes by the single authority of his own will ; create new bishops, and establish an inquisition, which he could not induce the people to admit either at Naples or in Milan. M. de Voltaire pretends that the dread of the inquisition alone made more protestants in Flanders than all the books of Calvin.

The innovations made by Philip roused all the Flemings ; and the principal lords assembled at Brussels, to represent to the governors of the low countries the violation of their rights. Their assembling in this manner was regarded at Madrid as a conspiracy ; though it had no one characteristic of a revolt, unless subjects are not permitted to meet, for conferring on their causes of complaint, and asking redress, without being deemed rebels.

The demands of the Brabanters were so much the better founded, because they had an ancient constitution existing ; which gave them, in the eyes of justice, if not in those of power, a title to the privileges they claimed.

The low countries were an assemblage of many signiories, pertaining to Philip, under different titles ; and each of these had its particular laws and usages.

usages. In Friesland, and in the country of Groningen, a tribute of six thousand crowns was all that the people owed to their lord : no impost could be laid upon any of their cities ; no lands could be rented by any person but a denizon ; no foreign troops could be entertained ; and no innovation could be made in any point, without the consent of the three orders. One of the articles of their constitution is thus expressed : “ If the sovereign, “ by violence or by artifice, shall infringe their “ rights, the states shall be absolved from their “ oath of fidelity, and may take that part which “ they shall believe convenient.”

Unfortunately it made no part of the education of these princes, to study, and acquaint themselves with the characters, the conventions, and the constitutions of the people over whom they were to reign. They were told, “ you are kings, and consequent- “ ly formed to command : your will is the supreme “ law. The men who are under your dominion “ are not the subjects of the empire ; they are your “ subjects, and to obey you is their first duty.”

With such precepts, echoed continually in the ears of princes by their base courtiers, and still baser governors, the minds of monarchs are led astray ; and having learnt this lesson, they think they have no more to learn. Hence the prince issues such orders only as are suggested by his own pride, or by the advice of evil counsellors ; and sends forth armed men

to enforce their execution : if he possesses sufficient power for enforcing it, woe be to those who have only right to plead in their behalf : but if the attempts of usurpation are repelled by the efforts of justice, the usurper loses not only what he sought to gain, but what he actually possessed, which was the case with Philip. This prince, who probably knew not one article of the constitution of Brabant, when the deputies, sent to Madrid for the purpose, presented at the foot of the throne the complaints of the people of the low countries, and desired the recall of Cardinal de Granvelle, their first minister, made no other reply to their remonstrances than by sending the Duke of Alva with Spanish and Italian troops among them ; and an order to employ executioners as much as soldiers.

Never was such an order executed with more horrid strictness. The heads of Counts Egmont and Horn were the first which fell ; but the Prince of Orange saved his by flying into Germany : where, in the heart of the empire, he traced in security the plan of the revolution he meditated. This prince soon gained the esteem and confidence of the protestant princes, who were lavish to him, says the Abbé Raynal, of their wishes, their advice, their troops, and, what will scarcely be believed, of their treasure.

The Prince of Orange, vanquished and driven back by the Duke of Alva, went to seek assistance
in

in France, where he received from Admiral Coligny more than had been bestowed on him by all the German princes : besides wise council, the admiral gave him a plan of attack, which might be easily executed.

Admiral Coligny remarked to the Prince of Orange, that the Spaniards had no marine force in the Low Country ; and that it was possible to attack them advantageously by sea. This idea appeared so excellent to the prince, that he forgot from that moment all the rebuffs he had met with ; gave himself up to the most sanguine hopes of success ; and took for his crest a certain sea bird, the *plongeon*, which always appears on the top of the waves ; to this device he added a motto, *tranquille au milieu de l'orage* (tranquil in the midst of the storm).

The officer, to whom the prince gave the command of his ships, surprised the port of Brill, and afterwards made himself master of the city. This success reanimated every mind ; and the provinces of Holland, which were humbled under the chain of tyranny, began to indulge the hope of recovering their freedom. They elected the prince of Orange their governor ; who thus held, by their appointment, the power lately conferred upon him, and afterwards withdrawn, by Philip.

The prince availed himself of the hatred entertained against the Spaniards by the people of Flanders

ders for engaging the provinces to make among them a league, which was called the pacification of Ghent.

If, at this crisis, the provinces of Brabant had joined in this league, for throwing off the yoke of Austria, the Low Countries would now have enjoyed for two centuries that independence, for which they lately contended with so little harmony and so much disadvantage.

The ambition of the lords of Flanders and Brabant, jealous of the authority and the credit of the Prince of Orange, stopt the effect of a wise project, which would have given existence to the most powerful republic in the world.

The league was, from this want of agreement, confined to the Seven Provinces, known under the name of Holland, and these executed in 1579, the famous treaty of Utrecht, which is the great fundamental law of the republic. By that law William Prince of Orange was declared the chief, with the titles of captain, high admiral, and stadtholder.

Philip thought he had a right to set a price on the head of this prince, whom his pride made him consider as the chief of rebels; but what the gold of a tyrant could not effect, superstition accomplished. A native of Frenchcompte, named Balthazar Gérard, assassinated him at Delf in the sight of his wife; who had lost her first husband, and her father,
Admiral

Admiral Coligny, in the massacre of Saint Bartholomew. How abhorrent must the Roman catholic religion have appeared to this princess, if she believed it capable of inspiring such deeds !

The new republic owed too large a debt of gratitude to the memory of the Prince of Orange, not to raise Maurice his son to the dignity held by his father, though he was then only seven years old. This prince justified the choice of the Hollanders, in confiding to him afterwards the command of both their land and sea forces ; for he acquired, in the engagements he had with the Spanish armaments, the reputation of the greatest hero of his time.

The life of Prince Maurice was an almost uninterrupted scene of battles, sieges, and victories. Intoxicated with his successes, and his glory, he unfortunately sought another crown besides that of the laurels which he had gathered. The title of the greatest general in Europe could not satisfy his ambition : he projected the destruction of the work accomplished by his father, by raising a throne in the bosom of liberty. This prince believing himself sufficiently assured of the friendship of Barneveldt, the only person who could determine the success or miscarriage of his enterprize, communicated to him the design : but that republican, who though he loved Maurice, loved his country still more, shewed such displeasure at a project
against

against the liberty of his fellow citizens, that Maurice retired with disappointment and anger in his countenance. This anger soon changed into hatred against the grand pensionary; and the stadtholder formed a resolution to remove that obstacle to his elevation.

The republic, which should at that time have been wholly employed in considering the means of establishing its liberty and its power, became agitated by vain quarrels concerning the influence of the Deity in the actions of men. Two sects divided the nation; and to such a degree were the minds of the people inflamed, that every person was obliged to declare himself a partizan of one of the two opinions.

Barneveldt had joined the sect which was most tolerant; which was alone sufficient to make Maurice attach himself to the opposite party: and he pushed his abuse of authority, and his influence over these fanatics so far, as to cause one of the most virtuous republicans that ever existed, to perish on a scaffold.

The end of this victim was much less unhappy than that of the murderer: chagrin empoisoned his days, and bent him to the tomb, devoured with regret for not having been able to place that crown upon his brow, which was the only object of his ambition.

Although the titles granted to William were not yet become hereditary in his family, Maurice having died without children, the republic conferred them upon Frederick his brother; who, with the same talents for war, and a more concealed ambition, contributed to render his country one of the greatest powers of Europe.

It was during the life of this stadtholder that Holland took from the Portuguese their finest settlements in both the East and West Indies; and forced Spain to acknowledge the independence of those to whom she had applied the title of rebels.

Frederick left at his death one only son, twenty-one years of age, who was immediately invested with all the appointments of his father. This young stadtholder, who possessed the warlike genius of his ancestors, not being able to exercise them on the powers which were at peace with the republic, determined to employ them for subjugating his country: and instead of dismissing the foreign troops, agreeable to the wish of the republic, who had no further occasion for their service, he attached them to himself, and united them under his command.

Already was the young prince on the point of entering Amsterdam as a conqueror, when a courier, who had penetrated even to the city, without being observed, acquainted the magistrates with

with their danger. The gates were instantly shut, the citizens put under arms, the cannon mounted on the ramparts, guard ships stationed in the port, the sluices opened, and the country laid under water. The stadtholder, disconcerted by those precautions, was obliged to confine his demands to the removal of a burgemaster; and thus retired in safety from before a city, where he flattered himself he should, in the character of sovereign, have given laws to Holland.

This ambitious young man, unworthy of being a citizen, since he knew not how to content himself with being the chief member of a republic, died like Maurice, the victim of vexation. He left no posterity but an infant yet unborn.

“ When this child came into the world (says the
 “ Abbé Raynal) the populace of Holland, who
 “ neither know how to support tyranny, or preserve
 “ liberty; to be the sovereign themselves, or to
 “ obey a master, shewed as much attachment to
 “ the infant as they had testified hatred for the fa-
 “ ther; and the proud titles, which they had
 “ detested in the one, they wished to see revived
 “ in the other.”

Fortunately there were then magistrates at the head of the republic who, without despising popular favour, preferred the honour of serving their country to the advantage of making partizans: and, by a wise and generous plan of administration, the
 states

states reserved to themselves the offices of stadtholder, and of captain and admiral-general.

At this period Cromwell came, under the title of protector, to array himself in the royal mantle, drenched by him in the blood of its late master. The unfortunate outcasts of the throne, which he had overturned, flying before this ferocious enemy, had found an asylum in Holland, and nothing more was wanting to make Cromwell its foe.

John de Wit, the grand pensionary, found himself placed, in consequence of his virtues, in opposition to the most audacious usurper, the most able politician, and the most implacable enemy that perhaps ever existed.

If the most sublime ideas, the most patriotic sentiments, could have ensured the victory, John de Wit would have triumphed over Cromwell: but the Hollander found not in his fellow citizens, the same resources, nor the same confidence, nor did he possess the same ascendancy over them, as had been obtained in England, by the man who called himself the protector of his country.

Holland, exhausted by her efforts for balancing the empire of the ocean, was forced to sign a treaty, by which the states-general of the United Provinces engaged themselves “to abandon the interest of the princes of the house of Stewart; to proscribe their nephew prince William; and never

“ to admit the prince of Orange, or any of his
 “ descendants, as stadtholder or governor of the
 “ republic.”

When we consider that France, in the early part of the reign of Louis XIV. was so mean as to subscribe to the conditions imposed by Cromwell; and, in compliance with them, to drive from the kingdom the two grandsons of Henry IV. Charles II. and the Duke of York, we cannot be surprised that Holland preferred the peace, of which it had so much need, to the honour of giving an asylum to foreign princes.

All great events in the history of any nation depend upon each other. If Cromwell had left a son, as ambitious, and as rapacious after dominion as his father, that son had never descended from the sovereignty of which he was for a moment in possession; Charles had never recovered the English throne; the prince of Orange, who had himself signed that declaration, published under the title of *the perpetual and irrevokable edict*, (the substance of which was, “ that the office of stadtholder, governor of one province or of many provinces, *should never be conferred on any person whatever,*”) would not have been invested with that dignity; and the republic of Holland would always have been governed by its own magistrates, and continued a democratic state; instead of being as, it now is, a government subject to a master, who bears the modest name of *stadtholder*.

The

The restoration of Charles II. reanimated the friends of the Prince of Orange. They used every means of rendering the administration of the republic odious to the multitude, and at last obtained the revocation of that edict, which had been published as *irrevocable*.

In vain did the grand pensionary represent to the people that, of the four stadtholders who had been established in the republic, two had endeavoured, by secret means, and the other two in a more open manner, to introduce tyranny into the state: the pensionary himself was obliged to consent to see the Prince of Orange invested with all the titles of his ancestors, after an administration purely republican, had prevailed in Holland for nineteen years. In order to level all obstacles to the absolute authority of their chief, the multitude, whom it is so dangerous to govern, even with success, massacred John de Wit, and Cornelius his brother, who almost equalled him in talents and in virtues.

Thus, of two illustrious citizens who had held the office of grand pensionary in the republic, one of them (Barnevelt) died upon a scaffold, and the other perished by the fury of the people. What an example is this to men, who possessing neither their talents or their virtues, aspire at being borne by the public suffrage to the highest offices of a monarchy, or of a royal democracy * !

* The name given by the French to their present government.

But a title, more superb than that of governor, or chief of a republic, was reserved for William III. Prince of Orange.

James II. king of England, who might have been better instructed by what had happened not long before, trifled with the liberty of the nation; and, willing to make his opinion triumph in every point, dictated to his people in religion as well as law. Lofty and violent in his temper, he disdained, as unworthy of a sovereign, that management which throws a veil over authority, and makes men believe that they act from inclination, when in truth it is the hand of some expert conductor which leads them on.

Deprived of all, by grasping at too much authority, and ceasing to be a king, in consequence of his seeking to be a sovereign, the descendant of Charles I. preserved his life, but lost his crown; and it was given to the Prince of Orange his son-in-law, who united the titles of king of England and stadtholder of Holland.

Though William III. had, under these two titles, a very conspicuous part to act during the reign of Louis XIV. his name does not make any very great figure in history; for the success of his arms was owing to two illustrious warriors, worthy of contending for the prize of glory with the generals of France: and though he had caused the states of Holland to declare his dignities hereditary
in

in favour of his male issue, as he died without children, this first blow, levelled at the liberty of the Seven Provinces, was without effect.

Holland, at this period, appeared disposed to follow the wise counsel of the late grand pensionary, de Wit, and to free itself from the authority of a stadtholder. What occasion, said they, can there be for a chief, or perpetual governor? Patriotic burgomasters are found in all our cities: the republic has also good admirals; and money to pay troops, and to place at their head an able general: its independence is acknowledged by all the powers of Europe; and have we acquired liberty for no other purpose than to sacrifice it to an heir of the house of Orange? Or, is it necessary that the treasure we have gained by commerce, or saved up by œconomy, should be exposed to the caprice of a stadtholder? What advantage has Holland gained by the war in which Prince Eugene and the Duke of Marlborough distinguished themselves so gloriously? Her name was scarcely mentioned in the occasion, and yet we defrayed the whole expence.

This wise reasoning circulated through the whole extent of the Seven Provinces, and suspended, for forty-five years, the nomination of another perpetual chief. But, unhappily for the republic, an attack was made upon its provinces by France, in the year 1747, and the friends of the house of Or-

ange took advantage of that event to bring into play the rights of a prince of Nassau, who possessed the stadtholdership of Friesland and Groningen. The province of Guelderland had some years before declared in favour of William of Nassau : and in fine his cause was espoused by that force, which is superior to war, and to the wisest revolutions : I mean the multitude ; a body which very rarely employs its power for the temperate reform of abuses, and the recovery of its legitimate rights ; but which destroys every thing, of which it cannot clearly perceive the reason, without careing about the injury which may be done by it to public affairs ; and which frequently proceeds to the correction of abuse only by the commission of other abuses.

The regents of the republic had certainly committed great faults : they had raised an aristocratic power on the ruins of that of the stadtholder : the burgomasters were become so degraded by a vile selfishness as to farm out the taxes, and afterwards take a share in the bargain ; the consequence of which was, that as the concern was their own, they studied only their own profit, and directed the collection of the taxes in the most severe and oppressive manner.

This proved to the people, that if the chief, whom they had lost, was sometimes despotic, a thousand tyrants had sprung up in his stead ; who displayed, on every occasion, an odious and humili-
ating

ating authority. The pleasure of overturning these tyrants; of triumphing in their vexation; of avenging their contempt; and of crushing them down under the authority of a sovereign, so entirely bewildered the minds of the multitude, that they believed themselves securing a great advantage by placing William of Nassau in the seat of honour and of power. This prince, although he had done nothing to serve the republic, obtained more than had been granted to any of his predecessors; for all his appointments were *declared hereditary in favour of his posterity; and even daughters, in default of male-issue, were to be admitted to the enjoyment of them.*

What a return did the people receive for this blind zeal! The new stadtholder associated with him in power those rapacious courtiers, who oppressed the unhappy Hollanders during their administration; removed all such as dared to oppose his injustice; sold offices and employments; caused himself to be named director-general of the India company; appropriated to his own use a part of their dividends; took no care for the re-*estab-*lishment of the marine, or fortifying the frontiers; and, in short, reigned, like too many other monarchs, for himself and his partizans only. He died, in 1751, unlamented by any, except those who might have looked for new favours at his hands.

The princess of England, his consort, was declared governess during the minority of her son

William V. and Louis Duke of Brunswick, who had been brought from the bosom of Germany by the late stadtholder, to be the governor of his son, was appointed commander in chief of the forces.

During the course of this minority, Holland retained nothing of a republic but the name. The princess, feeling no affection for a nation into which she came a stranger, governed with an imperiousness and severity, more agreeable to the character of an Asiatic empress than to that of a subject of a free state.

As to the Prince of Brunswick, trained up in courts, where there is nothing seen but command and submission, he taught his pupil no sentiments but what were destructive of civil liberty. He filled the army of Holland with a multitude of foreigners, particularly Germans; discouraged the national officers; introduced new maxims into the service, and detached the troops by every possible means from the interest of their country, as if he was preparing at a distance for the last revolution. This agent of despotism extended his authority even into the civil department. In the name of his pupil, who was then become of age, he formed all the regencies of pliable men, who never had in administration any will but his, or consulted any persons but themselves in municipal affairs.

Notwithstanding all this, William V. continued until the year 1781, to be beloved and respected by
the

the Hollanders : all their hatred was turned against the Duke of Brunswick, who was, in consequence, obliged to quit the republic : but he left behind him, in the mind of his pupil, the principles which had rendered him so odious : all the aversion of William was directed against France ; all his affections centred in England : and it was under the influence of these sentiments, that the prince, in contempt of treaties, made so many efforts for contradicting the will of his country ; and for forcing the Dutch to aid the English in oppressing the Americans, and to declare themselves against France and Spain in the last war. It was not owing to him nor to the princess his consort, that this republic did not rivet the chains of slavery ; or that the loss of its marine, and of its possessions in India, did not fall the sacrifice of its refusal. Abusing the power he possessed as high admiral, the prince gave all the delay he could to the fitting out a squadron intended against England, which had insulted the flag of the republic ; and he allowed Vice-admiral Byland to carry into Portsmouth five ships, which served as a convoy to a large fleet, and to take fourteen vessels before any declaration of war.

When he understood what a vigorous resistance Vice-admiral Zoutman had made against Sir Peter Parker ; who, with a squadron of very superior force, was obliged to fly into shelter ; he was so far from sharing the public joy, and the honour and

glory of his country, that he could not dissemble his vexation in presence of the officer who informed him of the news, but suffered these words to escape him, *at least, sir, the English are not beaten.*

His partiality for England was such, as to make him become the declared enemy of Holland. This he manifested in giving those orders, by which the Dutch squadron was detained from joining the French fleet, which lay waiting for them in vain at Brest. This perfidy completely opened the eyes of all the patriots: from that moment they began to form military associations; and to assemble different bodies of volunteers, who practised the martial exercise like regular troops.

The stadtholder, alarmed at the daily progress made by patriotism, had recourse to those abject means which tyranny disdains not to employ: he hired both writers and preachers to propagate libels among the people: he converted the evangelical seats into rostrums for publishing sedition: he animated the troops against the municipal officers: he caused the alarm of trouble to be echoed every where; and, setting up the orange cockade, left the Hague under pretence that he was deprived of the command of the city. He then shewed himself, without any appearance of pomp, as if reduced to the most deplorable state; and after going in this manner to Zeland, he passed on to Friesland; and, always accompanied by his family, endeavoured to excite every

every where, that concern which awaits an unfortunate and fugitive prince.

Aided by this artifice, and the succours sent him by a foreign court, he has reinstated himself in unlimited authority; broke the bands which united France to Holland; and, by forming them again with England, he has rendered abortive the scheme conceived by the good patriots, of giving to Holland a constitution very superior to that which existed under the first stadtholders, and which has been growing worse under the three last chiefs of the republic.

Before I examine the constitution of Holland, I shall take a review of the events which I have been relating.

I have shewn a people, irritated by Spanish despotism, and by the invasion of their privileges, struggle against a monarch who was then the most powerful prince in Europe; preferring death to oppression; surmounting, in a country commanded by the sea, both the fury of tyranny, and that of the ocean; exercising the first right of men united in society, that of chusing a chief; imposing upon him, as the first of all duties, that of defending and protecting their liberty; and granting him, on that condition, all the honours, all the privileges attached to the dignity of a monarch.

The first chief, after having been himself the object of persecution under arbitrary authority,
which

which he had therefore particular cause to hate, still darkly meditated the means of obtaining it; and secretly nourishing, even to death, the design of ravishing from the republic that liberty to which he owed his elevation. Happily for the honour of his memory, an atrocious crime, of which he was the victim, prevented the execution of his guilty enterprize.

The son of the first stadtholder, invested by the unanimous will, by the free choice of his fellow-citizens, with the same titles which his father had merited, could not defend himself from this frenzy, which is the disease of chiefs. The laurels which he had gathered in the field of victory; the reputation of being the greatest general in Europe; the honour of being the most redoubtable protector of liberty, could not satisfy the ambition of Maurice: he had all the authority of a king, but still he wanted the title: and because he found a courageous resistance in one virtuous republican, he polluted all his renown; for the hero, covering himself with a religious veil, and employing the mean disguise of hypocrisy, shed the blood of the purest of mankind! The spectre of the generous Barneveldt was ever after present to his imagination, and he was borne down to the tomb by remorse, and public indignation.

The third chief appeared, by his conduct, less intent on reigning than finishing his life in
peace;

peace ; but his son shewed himself without reserve : he turned the arms of foreigners against his country, and was determined to penetrate into its bosom, not as a wise administrator, but a bloody conqueror. Ashamed of having failed in his guilty project, and seeing nothing around him but distrust, his days were shortened by vexation ; and he died, like Maurice, without having acquired the same glory.

The son, who owed his life to this ungrateful chief, had not then seen the day ; and the republic fell under an aristocracy. It was not at that period able or intelligent chiefs that Holland wanted, but true citizens, who knew how to divide the authority, without distinction of rank or birth, to all who were capable of exercising it : citizens who would have exerted themselves in guarding the multitude from all oppression : who would always have shewn the law triumphant, and not their will ; and who would have encouraged industry, and repressed licentiousness, not only by fear, but by the example of sound morality, and a wise public spirit.

During the course of two interregnums, the aristocracy fell into the same faults, the same injustice, and the same excesses: nobility, and antiquity of families appeared to them to deserve the preference in the distribution of honours, of rank, and of lucrative employments. They cast, with the same obstinacy, both duties, taxes, and privations, on the multitude ; without regarding their murmurs or
com-

complaints, until these murmurs; and these complaints, were changed into the cries of sedition and fury. The people, despising the counsel of pensionary de Wit, raised to the sovereignty the heir of the house of Orange; despoiled themselves in his favour of the valuable privilege of electing their governor; and, in order to deprive the aristocracy forever of all hopes of governing, they declared the title of stadtholder hereditary.

Under William of Nassau, the republic enlarged this sacrifice, by extending this favour to all the descendants, or heirs of the house of Orange, without distinction of sex.

It was impossible to push to a greater extremity the excess of hatred, and a blind desire of vengeance: but alas! what was the consequence to the multitude?—a civil war, of which we have seen the commencement and the issue; and liberty crushed down under absolute authority!

On the death of William of Nassau, his son, still a minor, became necessarily the chief of the republic; and his mother was appointed governess. This princess, who in her heart preferred her former country to that which had adopted her, sacrificed the interests of Holland to those of the court of London.

A foreigner, called from the bosom of Germany to superintend the education of the young stadtholder, after having been appointed to the chief
com-

command of the army, arrogated the right of introducing into it the slaves of despotism; and he thus discouraged the military spirit of the Hollanders, by frustrating their lawful hopes. The regencies were soon composed of vile courtezans, and vile adulators, devoted to the designs of the governess, and to the Prince of Brunswick!

The republic, whose interests were so opposite to those of England, became the submissive ally of its rival; the Hollanders were not even permitted to preserve neutrality in the cause of freedom: but were required to employ their forces against those, whose only crime was their being willing to gain the rank of citizens.

Holland was at this time reduced, by the perfidy, or at least, by the carelessness of its chiefs, to such a state of weakness, that, without the protection of France, the Cape of Good Hope would have been lost to the republic, together with its colonies and possessions in India: nay, Holland was even in danger of seeing ravished from her that valuable fishery, which seems to convert her sailors into so many husbandmen, who reap the harvest of an immense field sowed by nature.

Such are the misfortunes to which we have seen this republic exposed, which, from the sterility of its soil, can subsist only by its commerce and its industry. The loss of its liberty, and its present degradation, must be attributed to the blind empire

pire which the multitude has been suffered to obtain; to the want of attention to the conduct of their chiefs, who have exceeded their powers in the course of their administration; and to the great authority of its regents under the aristocracy.

Those people alone are truly wise, and deserving of liberty, who place not the deposit of their glory, of their good fortune, of their very existence, in the hands of an absolute chief; whom, in the course of hereditary succession, they may find abounding in all the vices, without the mixture of one virtue:—who, in an interregnum, never authorise a general, ignorant of their constitution, to come among them, and to stifle, under servile and oppressive prejudices, under anti-patriotic maxims, the noble and generous sentiments which ought to form the public character:—who, distinguishing the rights of nature from those of sovereignty, leave to the mother of that prince, who is destined to cause the execution of the law, the empire of tenderness and maternal care, but confide not to her the tuition of the state as well as the infant:—who, foreseeing the extension of authority, oppose to it a sacred bond, which it can never break:—and who, uniting the interest of the chief, with the glory of the nation, never suffer them to separate.

In fine, that people alone are prudent who, instructed by the experience of ages, and by the lessons

sons conveyed in the history of nations, know the two rocks between which they must steer, to arrive at public liberty : and who avoid with the same care the crags of despotism, and those of aristocracy ; that, if they have the good fortune to escape the one, they may not be dashed against the other.

CHAP.

C H A P. XXI.

OF THE CONSTITUTION OF HOLLAND.

I HAVE shewn by what generous efforts the seven provinces, which form the republic of Holland, were emancipated from the yoke of Spain : how they acquired the right of chusing a chief; and how they have imprudently deprived themselves of that noble privilege, by making the title of stadtholder hereditary in the house of Orange.

With respect to the last revolution, as it has happened so recently, and under our own eyes, I shall only mention some particulars of that affair.

The stadtholder, who may now be called the reigning prince, had, says the author of the History of the Revolution, three means of subduing patriotism, and bending the patriots to his yoke. He began by employing that of sedition, which had always succeeded so well with his predecessors who aimed at governing despotically : but it did not answer his wishes, because the patriots were sufficiently powerful to disperse the seditions.

The

The prince then tried the means of corruption among the provincial states, in order to obtain such resolutions as might screen him in the exercise of the authority he had usurped. The attempt succeeded in Guelderland as he expected; it prevailed equally in Friesland beyond his hopes: and, notwithstanding the firmness of three cities of the province of Zealand, he accomplished, by the aid of the grand pensionary, who was neither a Barneveldt nor a de Wit, the seduction of the Zealanders; and he detached the province of Utrecht from the patriotic cause, for which this province had shewn itself so devoted, in the commencement of the revolution.

The provinces of Overijssel, and of Groningen remained incorruptible: that which is named the province of Holland, and which includes Amsterdam, after having wavered for a time, was fixt by the zeal of the patriots, who gained a majority in the states sufficient for giving law to the equestrian order, and to the deputies of the small cities. In spite of the explicit and well known wishes of the citizens, these deputies ventured to vote against the sovereignty of the state, and the liberty of the people.

The prince had, as we have seen, at most a majority of one voice among the seven provinces: but the province of Holland, continuing adverse to him, put a stop to his authority.

This determined him to employ the third means, which was that of violence; a means which had been resolved upon at Nimogen, after the death of Frederick the Great, by the general consent of the states of Guelder, and the cabinets of England and Prussia.

.. It was however determined, before things should be driven to this extremity, to make one more attempt at working up the populace to a general insurrection, and the following plan was devised for that purpose:

The Princess of Orange, who took upon her the principal part in the project, began by causing the miscarriage of a negociation for accomodating matters, which had been proposed by the courts of France and Berlin, and carried on at the Hague: and she then pretended to have in view, a means of bringing about a complete reconciliation between her husband and the states.

The consequences, which must result from this specious design, were, that the princess would either arrive, without obstruction, at the Hague, or she would be forced to turn back. In the first case, she would find it easy to stir up the people; to animate them in the course of her journey; and to excite a sedition, so much the more difficult to suppress, as the troops which were attached to the patriotic cause, were employed at Utrecht, or on the

the borders of Holland. If, on the other hand, she should be stopt in her course, it would be an outrage, an act of violence, which would furnish a pretext for a young prince to demand vengeance of an insult offered to his sister, and which he could not in honour allow to pass unpunished.

These hopes were realized by the event. The Princess of Orange was not permitted to pass the line of troops, and proceed to the Hague; but the most decent and respectful forms were observed in the refusal. The princess nevertheless exclaimed at what she termed an outrage; she hastened to solicit succour and protection in her own name, as well as that of her husband; and it was soon announced, that a Prussian army was arrived, for reconducting the stadtholder and his consort into the province of Holland, and humbling the patriots.

France was strongly solicited to oppose the entrance of a foreign power into Holland, and all the rules of policy prescribed the measure: she had lately exhausted herself in weakening England, and detaching from that kingdom one of her finest colonies: by assisting Holland, she must have bound that republic to her for ever; since it would have owed its possessions entirely to her friendship: and though the Hollanders furnished so little assistance to the French during the last war, it was not through their fault, but the abuse which the stadtholder made of his authority:

it was therefore of the last importance to France, to complete her work, and separate Holland entirely from all alliance with England, since the marine force of the latter, however superior it might be to that of any one of the powers, could not struggle against the fleets of Spain, Holland, and France united.

A land-force, well conducted, strenghened by the Dutch patriots, and supplied with provisions of every kind by them, would have hindered the Prussian army from penetrating into Holland : and the stadtholder would have been forced, as the only means of preserving his titles and his honours, to agree to the plan of constitution which would have been presented to him : one of the principal articles of which was to have been, that “ whenever
“ the states had determined to furnish an ally with
“ any number of ships, men, and stores, the prince
“ should not, on any pretence whatever, retard
“ their departure.”

France would have been the more secure of succeeding in this important business, as it has since been certainly known that the Prussian forces had orders to proceed no longer than while no French army opposed their passage : but the troubles which then began to break out in that kingdom, and, still more, the incapacity of her ministers, made the French suffer their old enemy, the stadtholder, to recover his former ascendancy in the republic ;

public; and the latter thinks no more of the services formerly rendered to it by France, since its assistance was not afforded on this most important occasion.

The Prussians thus entered the dominions of Holland without any interruption, to the number of twenty thousand men: the rhingrave of Solms betrayed at the same time the confidence of the province, which had entrusted him with the command of its troops: and the little garrison, which defended Utrecht, having abandoned the place, the free corps, and the troops which guarded the frontiers of the province of Holland, retired into Amsterdam, the lines of which they fortified.

The states were at that time separated into two assemblies. Those, who were assembled at the Hague, abrogated all the resolutions, all the decrees, taken at Amsterdam against the province of Utrecht; and, annulling the suspension of offices, pronounced against the stadtholder; they invited the princess to return, and ordered the nation to wear the orange cockade.

The sovereignty of the states being thus divided, they contended with, and destroyed each other; and it was the superiority of force alone that was acknowledged.

Amsterdam appeared disposed to stand a siege, and the banks around the lines were cut for that purpose: but when the Prussian army arrived, af-

ter having had a few trifling encounters before some towns, (which, in disobedience to the orders of that part of the states assembled at the Hague, had refused to open their gates to these strangers) though the people of Amsterdam saw fifteen hundred of the enemy perish before their lines, they distrusted their power of resisting the army with which they were surrounded; and not finding, among the rich inhabitants of the city, that courageous zeal which rises above danger, which considers wealth as nothing, and affixes no value to any thing but liberty, they determined to capitulate.

The deputies of Amsterdam conferred, on this occasion, with the commissioners of the states of the Hague; whose resolutions were entirely dictated by the stadtholder. The former proposed only six articles as the preliminaries of their absolute submission; and even these were either evaded or refused.

By the first article they demanded, that *the people should have a proper influence in the administration.* This demand the commissioners dared not openly oppose; they only replied, *that a commission of state was to take this object into consideration, and that the people must wait their report.*

The second article demanded, *that the city militia should keep their arms as formerly.*

The

The commissioners replied, that *all the militia of the cities should keep their arms, in case they should be found useful to the municipality.*

By the third article, the deputies insisted, that *the then regent, and all the officers, should retain their respective appointments.* To this the commissioners refused to subscribe.

The object of the fourth article, was to desire *to be exempt from a garrison;* and this was acceded to.

The fifth article demanded, that *the publication of the placard, concerning the wearing of an orange cockade, should not be required.* The commissioners were willing to promise, that it should not be insisted on, provided that *no person should be molested for having worn the orange cockade.* But this promise was not observed; for even strangers, who were not willing to appear with that badge of slavery; found themselves exposed to the fury of the multitude.

By the sixth article the deputies demanded, that *all persons, whether of the civil or military department, who had retired into Amsterdam, or into the places protected by that city, should not be molested either in their persons or their property.*

The commissioners had the baseness to answer, that *they could not take upon them to engage on this point, as it must depend on the satisfaction which his Prussian majesty should require for her royal highness.*

After these demands, and these answers, the Prussian army entered Amsterdam in the month of September 1787.

The states of Holland were so far from thinking of setting any bounds to the power of the stadtholder at this crisis, that they humiliated themselves before him; and published two proclamations, by which they annulled all their preceding declarations, and forbid any resistance being made against the Prussian troops, which it was pretended *were, not come with any hostile intention.*

The stadtholder assisted on the 25th of September, in the assembly of the states general, where the representatives of the republic felicitated him, who was come to give the last blow to liberty.

The princess received, like her husband, the compliments of all the ministers: happily the French ambassador was not then in the states of the republic, which excused him from playing a part so familiar to those who appear in that character.

A deputation from the states of Holland waited upon the Princess of Orange, to learn what satisfaction she required for the hindering her journey to the Hague. Her royal highness was not so generous as to express herself in those terms which have done honour to a queen more grievously offended. *I saw every thing, I understood every thing, I have forgot every thing.* The Princess of Orange had forgot nothing, for she required the removal of eighteen
teen

teen members of different commissions or regencies, who were instantly cashiered, never more to hold any employment of the government.

The baseness of the states was conspicuous in many decrees or resolutions, by which a kind of proscription was suffered to remain against all persons who might be in future convicted of soliciting the intervention of foreign powers, or calling in defenders to the succour of menaced liberty.

But the most extravagant, the most contradictory circumstance which occurred in the proceedings which followed this revolution was, that, while those who had impeded the march of the Prussian army, were persecuted and banished, the states of Holland, on the representation of the deputies of Dordrecht decreed, that *the rbingrave of Solms should be cashiered from all military appointments, and prosecuted criminally for the crime of desertion.* This decree was confirmed by the states general, and letters written in consequence to the ministers of the republic in foreign courts, to demand the seizing his person.

Such a sentence ought to deter men from the practice of those vile and traitorous actions, which are sure to render them odious to both parties, and which never secure them protection even from the side in whose favour they have been committed.

After these events, too recent to be forgotten, how ought the French to rejoice at having seen those
obstacles

obstacles which seemed to oppose the creation of a wise constitution, give way of themselves; and all the provinces of the kingdom bend to the empire of reason! How happy ought they to esteem themselves, for having found, in the chief of their nation, a prince, more solicitous for the welfare of his people than his ancient prerogatives, ready to sacrifice part of his power to the general wish, and to give a free consent to the extensive plans of reform, necessary for regenerating the monarchy, and ensuring its duration!

We have seen the republic of Holland sink under the struggle of liberty against arbitrary power; let us now observe what kind of constitution her oppressors have suffered her to retain.

The first fundamental law of this state is, as I have already said, the act of union made at Utrecht.

The first article of this act imports, that “the
 “ seven provinces unite forever, by this treaty, as
 “ if they formed but one same and single province;
 “ without prejudice however to the privileges, the
 “ immunities, the usages, and the rights of each
 “ province, or of the cities which compose it.”

The French have acted more wisely, and established the union of all their departments with more certainty, by not leaving to any of them either distinct privileges, or particular immunities. Nothing impresses a stronger idea of all belonging to
 the

the same country, than all being governed by one general law, and all participating the same regulations, the same appointments, and the same prerogatives.

By the second article of this act, *the confederates are engaged mutually to assist each other*: this was not a simple invitation which it was advisable to make, but a duty which it was necessary to prescribe.

The articles which regulate the defence of the state, do not determine to whom, in times of trouble and discord, the troops should be subordinate. This is one of those omissions, which proves that the provinces looked only to the present moment, and were not capable of laying the foundation of durable liberty. It is always necessary to establish, in the bosom of a republic, a centre of authority, around which all good citizens may unite for suppressing seditions.

In attributing to the stadtholder, by the ninth article, the provisional decision of all difficulties which might arise among the provinces, they showed less prudence, than reliance in William I. because, supposing this prince deserved their confidence, his successors, as time has proved, might be inclined and able to abuse it.

Another impropriety, no less evident is, that of declaring, by the twenty-third article, *null and void all that which may be done contrary to the treaty of union*:
thus

thus the existence of a stadtholder becomes absolutely necessary, because that act imports that there shall be a stadtholder; and consequently the suppression of that office would be illegal. No confederacy should in this manner, exclude itself from the privilege of improving its social convention.

The twenty-second article imports, that *no change, no augmentation, shall be made in any of the articles of union, without it has been adopted by unanimous consent.* This is a dangerous law, for it grants the veto to any one single province, and gives the stadtholder an opportunity, by seducing one alone, of stopping the resolutions of the six others.

The article which truly constitutes the state of Holland a republic is the ninth: it is there expressed, that *neither peace nor truce shall be concluded; nor war undertaken; nor impost, nor contribution established, but by the unanimous consent of the provinces; but in all other affairs, whatever shall be resolved upon by a plurality of the votes of the provinces shall be valid.*

The seven united provinces, which represent the sovereignty of the republic, are those of Holland, Friseland, Zealand, Utrecht, Groningen, Overysel, and Guelderland.

Each of these have their states; and when the states, composed of the plenipotentiaries of the seven provinces, unite, they form the body of the states general,

general, which are, or at least ought to be, invested with the supreme power.

These plenipotentiaries have a right of deciding such temporary affairs as will not admit of delay : but in other matters or circumstances, they must be expressly authorised by the provinces, of which they are the delegates ; and if they exceed their powers, they are subject to such punishment as the respective states judge proper to ordain for the offence.

Neither peace nor war can be made ; nor any troop of soldiers raised ; nor any alliance concluded, without the consent of their constituents, and the unanimous consent of the plenipotentiaries of all the provinces. It is in the name of the states general, taken collectively, that war is declared, and treaties of peace ratified ; and it is they who send ambassadors, and give audience to those of foreign powers.

Generals of the army, and other officers, in time of war, are obliged to take the oath of fidelity to them : and when a campaign is opened, some members of this body, or of the council of state, act in the army as their deputies. Their power extends so far as even to create a marshal, if they believe one necessary. It is they who issue letters of enfranchisement, and grant protections : who impose duties on merchandize, imported or exported for the use of the army : and what decisively veri-
fies

sies their sovereignty over the army is, that the right of pardoning deserters rests in them.

These rights alone would give great extent to the republican power, if they were more distinctly expressed in the treaty of union; but they frequently come in competition with those of the stadtholder, and with the authority of the council of state: yet, notwithstanding this obscurity, the terms in which the oath, taken by the stadtholder at the time of his advancement, is conceived, are sufficiently clear for explaining his privileges, and those of the republic. “ I swear (says he) and I promise to the confederate states of the Low Countries, namely, to the higher and the inferior orders of nobles, and to the magistrates of the towns of Holland and Westfreisland, who represent the states of these provinces, to preserve obedience and fidelity to them; and also to keep strict guard that the officers of the army, who are under my orders, obey the laws and ordinances established by the confederates, and particularly by those of Holland.”

This oath alone renders the present stadtholder inexcusable *, for not having obeyed the resolutions of the states general during the last war.

It is these states, who establish magistrates in the towns, commanders in the fortresses, and confer even the most important offices. The title bestow-

* The French word is too strong for a literal translation.

ed upon them is, *the most puissant lords, our lords, the states general of the united provinces.* The motto of their arms is just and modest: *Concordia res parve crescunt.* *The smallest things are increased by concord:* it is also true, that discord reduces them to nothing, which has been recently evinced in this republic.

If the states general had agreed not to grant to a duke of Brunswick the appointment of commander in chief of their troops; if they had not permitted him to introduce foreigners, in preference to the national officers; if they had not suffered him to prevent the military spirit, by turning it from a due obedience to the republic; and if, during the last war, they had resolved in concert to oppose the tyrant of the ocean, and to furnish France with the succours necessary for strengthening her fleet: if on the refusal of the stadtholder to obey the resolutions of the states general, they had unanimously suspended his offices; and if they had afterwards reinstated him, on condition of his subscribing to a plan of constitution which would have clearly limited his authority; if they had done these things, no prince would have come to give laws to a republic, whose parts were all united in general accord.

There is in Holland, besides the states general, a council of state, which is composed of twelve members, deputed by the states of the different provinces. The greater part of these deputies sit
for

for three years only, and their respective states can, at any time, recall them.

The deputies of the province of Holland have three voices, while those of the others have but one or two: which gives that province a great preponderance in the resolutions of the council of state.

The deputies preside week about in their turn; they hold their assembly every day in the castle at the Hague; and their principal business is that of military affairs, and of the finances. The revenue, which is chiefly under the inspection of this council, consists of the sums which the seven provinces, and the country of Drente, are obliged to furnish annually for the military chest; and those which are paid by the conquered countries to the general treasury.

There are certain occasions on which the whole council of state is obliged to appear before the states general: but when the states desire to confer with the council on any particular affair, the latter deputed two or three of its members to the college of the plenipotentiaries; and this is another proof that the states general represent the sovereignty in the eyes of the council of state.

This body, the council, is composed, besides its twelve members, of a secretary and a treasurer, who are consulted, but do not vote; the votes are taken here by head and not by province, as is the practice

practice with the states general. When the stadtholder assists at the council of state he is the president.

In a moment, when it is proposed in France to suppress all tribunals; such as the chamber of accounts, I am obliged to say that there exists one in Holland. It appeared necessary for assisting the council of state in the labour of attending to all the details of the finances, and verifying the accounts. This tribunal is composed of fourteen members, two of which are deputed by each province.

Perhaps it would be more wise in the French, instead of disdaining the institutions of other governments, to recreate a chamber of accounts, after the example of Holland, to be composed of one member from each department. These eighty-three deputies assembled in the capitol, should be charged with inspecting all the accounts of the directories: and examining how the money, received by the municipalities, and not brought to the national treasury, had been expended. Such an establishment would prevent much abuse, much depredation, and submit to one central authority, all those divided authorities which are disposed to believe themselves independent.

There is also in Holland a chamber for superintending the coinage of money; the members of which are chosen and appointed by the states general. The reason of this establishment was, that

each province had in virtue of its particular sovereignty, a right of coining money for itself: but a general agreement was made among them, in order to prevent their coin falling into discredit, and the course of commerce being impeded by it, that all their specie should bear an equal portion of alloy; and, in consequence of this agreement, one common chamber, for regulating the coinage of all the confederate states, was instituted.

The affairs of the marine are transacted in five colleges of admiralty; in all of which the stadtholder, as high admiral of the republic, presides and gives such orders as he believes necessary.

What are now called the states general are but the representatives of that assembly: they form a body, always sitting at the Hague, which was established in this manner, for the conveniency of being constantly assembled, without removing eight hundred persons, who formerly composed the national assembly, and served rather to promote confusion than knowledge.

The number of these deputies is not determined: each province may send to the states general as many delegates as it pleases: but this privilege is not oppressive, because every province pays its own deputies, and let it send as many as it will, they have altogether but one vote in the assembly.

The

The general assembly is not composed of more than forty or forty-five members: no distinction of rank is observed among them: they sit continually; and each member presides in turn for one week.* Thus there are no cabals; no secret combinations formed to obtain the dignity of president for one member in preference to another; nor for excluding certain individuals from the chair.

The stadtholder may present himself before the states general, whenever he is disposed to make any proposition tending to the common weal; but he has no right to sit there as a member, nor is any particular place assigned him. When he has made his proposal, the states ask his opinion; and he then retires, that they may take the matter into consideration.

William III. who, after he became king of England, retained the office of stadtholder, had a chair of state prepared for his reception, when he went to the assembly; an innovation which was undoubtedly admitted out of respect to his title of king; but, after his death, this mark of distinction appearing inconsistent with the honour of the confederate sovereigns, it was abolished. The seat of the present stadtholder is a common chair.

Thus it is that states often know how to maintain their pre-eminence in points of little moment,

N a

and

each province had in virtue of its particular sovereignty, a right of coining money for itself: but a general agreement was made among them, in order to prevent their coin falling into discredit, and the course of commerce being impeded by it, that all their specie should bear an equal portion of alloy; and, in consequence of this agreement, one common chamber, for regulating the coinage of all the confederate states, was instituted.

The affairs of the marine are transacted in five colleges of admiralty; in all of which the stadtholder, as high admiral of the republic, presides and gives such orders as he believes necessary.

What are now called the states general are but the representatives of that assembly: they form a body, always sitting at the Hague, which was established in this manner, for the conveniency of being constantly assembled, without removing eight hundred persons, who formerly composed the national assembly, and served rather to promote confusion than knowledge.

The number of these deputies is not determined: each province may send to the states general as many delegates as it pleases: but this privilege is not oppressive, because every province pays its own deputies, and let it send as many as it will, they have altogether but one vote in the assembly.

The

of mere form. He it is who holds correspondence with other courts; and as he is the person who ought to make himself acquainted with their secrets, the republic allows him the disposal of one hundred thousand florens, of which he is not required to give any account. So true it is, that neither republican nor monarchical governments neglect these shameful means of corruption, by the aid of which they pry into the dispositions of courts, and discover all their proceedings.

I should have given but a very imperfect idea of the constitution of Holland, if I had abridged any of those details necessary to its development: and the United Provinces are, from their situation, so intimately connected with France; and their weight in the political balance is so considerable, that Frenchmen ought to examine all the branches of their administration, that they may form a true opinion of their powers, of the importance of their alliance, and of the means by which it may be secured.

It is the business of the council of state to execute the resolutions of the states general; prepare such matters as must be considered by them; point out the most advantageous manner of raising troops, and imposts, and settle the proportion which should be assigned to each province.

In the month of October or November the council make an estimate of the expences which appear

and suffer those, which are much more essential, to be usurped !

The equestrian order of each province, composed of nobles, forms a distinct body, which always deputes one of its members to the states general.

The deputies of the provinces, those of Zealand only excepted who are chosen for life, are recalled, some at the expiration of three years, some not till six : but they are always appointed with a proviso that their constituents may recall them in a moment whenever they please, in case of malversation or infidelity to their instructions.

The office of grand pensionary is, in Holland, next in consequence to that of stadtholder. This minister, who is also keeper of the seals, has a seat among the states general ; and all proposals made by him are in the name of the province of Holland. Although this important commission is conferred by the states of Holland and West Friesland for only five years, the same person is almost always re-appointed, unless he be found unworthy of being continued in office. If the patriotic party had triumphed in the last revolution, there is no great reason to suppose that the present grand pensionary would have retained his dignity.

This officer is regarded by foreign ministers as the first minister of the republic ; and it is to him that ambassadors address themselves on all matters of

rity under acts not corresponding with each other. Thus, for example, his privileges are, in virtue of his original title, much more extensive in the province of Guelderland than in that of Utrecht : and his power is more limited in that of Holland than in the others. So that each stadtholder, in proportion to the influence he could obtain, has been desirous of extending, over the whole seven provinces, the same authority he was entitled to in any one of them : while, at the same time, all the seven provinces have not been unanimous in repelling his usurpations ; because if he wronged five of the provinces, there were still two in which he could plead a legal right to the power he exercised : and this is one of the principal vices in the constitution of Holland.

Another great defect in its constitution is, that all the provinces are not governed by the same laws : in one province the equestrian order has no existence ; in another it bears down every thing : and thus, while democracy animates one part of the republic, aristocracy subjugates another.

There are few noble families in the provinces of Holland and Zeland, almost the whole of that class having perished in the wars against Spain : and it must be acknowledged, that nobility could not become extinct from a nobler cause. In the five other provinces they have been better preserved, and as they retain all the pride of the Spaniards,

necessary for the ensuing year: this they present to the states general, who direct its being raised in the provinces according to the following proportion, which was established in the year 1612.

Of every hundred florens the province of Guelderland pays about five, that of Holland fifty-eight, that of Zeland nine, that of Utrecht five, that of Friesland eleven, that of Over-Issel three, and that of Gronengen five, and the county of Drente pays only one floren.

This table of proportions evidently shews the superior importance of the province of Holland over all the other provinces joined in this union; since it alone pays more than all the six others together.

Imposts are demanded in Holland, according to an ancient custom, in the name of the stadtholder, and of the council of state; and the impost paid there are, in proportion to the territorial wealth of the republic, more burdensome to the contributors, and more excessive than are supported in any other state in Europe.

After the account I have given, it may appear extraordinary, that there should have been such dissensions between the stadtholder and the states; but the cause originates in a circumstance which renders the privileges of that governor or commander very obscure. He is not only stadtholder in general of the Seven Provinces, but stadtholder of each province in particular, and holds his authority

rity under acts not corresponding with each other. Thus, for example, his privileges are, in virtue of his original title, much more extensive in the province of Guelderland than in that of Utrecht : and his power is more limited in that of Holland than in the others. So that each stadtholder, in proportion to the influence he could obtain, has been desirous of extending, over the whole seven provinces, the same authority he was entitled to in any one of them : while, at the same time, all the seven provinces have not been unanimous in repelling his usurpations ; because if he wronged five of the provinces, there were still two in which he could plead a legal right to the power he exercised : and this is one of the principal vices in the constitution of Holland.

Another great defect in its constitution is, that all the provinces are not governed by the same laws : in one province the equestrian order has no existence ; in another it bears down every thing : and thus, while democracy animates one part of the republic, aristocracy subjugates another.

There are few noble families in the provinces of Holland and Zeland, almost the whole of that class having perished in the wars against Spain : and it must be acknowledged, that nobility could not become extinct from a nobler cause. In the five other provinces they have been better preserved, and as they retain all the pride of the Spaniards,

who were their ancient masters, they disdain commerce, and prefer indigence to what they call a misalliance : pride therefore unites only with pride, and their union frequently produces poverty and ignorance.

As this body hope only to exist by civil and military appointments, they favour, with all their efforts, the power of the stadtholder ; in expectation of being recompensed for their zeal, and devotion, with lucrative places in the state. Thus vanity conducts men on to baseness : and these imperious barons would rather be noble slaves than rich republicans.

What I have said may serve to convey a just idea of the general constitution of the seven provinces ; but the administration peculiar to each is still unknown ; I shall therefore give an abridgment of what M. Dèmeunier says, in *le Dictionnaire Diplomatique*, under the head of Holland, of the law by which that province is governed.

The provincial states of Holland are composed of two members : the first is the body of nobles, commonly called *the equestrian order* : the number of these nobles is not determined, nor is it always the same : they elect, by a majority of votes, those whom they are willing to admit into their order, but it is seldom composed of more than ten. The stadtholder, as first noble of the province, is president of this order.

The

The body of nobles debate in their own assembly the matters which come before the provincial states: upon these they resolve by a majority of votes; and their resolution, carried to the provincial assembly, stands as one single vote. It appears from this, that the whole body of nobles of one province have no more influence, in the general determination of any matter, than any single city which sends a deputy to the states: of course, such an aristocracy is not much to be feared.

The second member of the provincial states of the province of Holland, is the body of the cities of that province, which are supposed to represent the people. These cities, which have a right of sending deputies to the provincial states, are eighteen in number; from whence we may conclude, that all the other cities of the same province, as well as the towns and villages, which send no representatives to the states of their province, boast of freedom which they do not enjoy; because, as they communicate not their will to the states general, and enjoy not the right of suffrage, they are consequently no more than subjects of the states. But the word *liberty* sounds so sweet in the ears of men, and they find such pleasure in repeating it, that the name is often retained by those who have long been deprived of the thing.

The Hague is the place where the states of the province of Holland assemble: but, although they
fit

fit there, within the limit of their own sovereignty, they give way to the states general, out of respect to the union.

The eighteen cities form a body distinct from that of the equestrian order: and, counting the vote given in the assembly of these cities, by the body of nobility, the suffrages are nineteen, the majority of which constitutes a *resolution*, which has the force of law, with respect to the province only.

The deputy of each city is always accompanied by a magistrate, whom they call an *advocate*, or *pensioned counsellor*, and who addresses the states in the name of the deputies of his city: so that the deputies appear to be sent only to listen and take care that this speaker faithfully reports what is contained in the instructions of their constituents.

The times of meeting of the ordinary assemblies are fixed: but, during a war, or under any critical circumstances, extraordinary assemblies are convened at the requisition of a small permanent committee, established at the Hague.

All matters, which are to be resolved upon in the assembly of the states, are discussed in the different regencies of the cities which have votes in the states; and resolutions are there determined by a majority of the voices of the regents who compose the grand council of the city.

the direction of so many priests. A small body, devoted to the doctrine of Jansenism, are willing to have it believed, that they have taken refuge in Holland, in order to shelter truth from persecution; but no power took notice of their sect, and it was suffered to die away in obscurity. It is no unusual thing to meet, in the Dutch provinces, a Jansenist, followed by an anabaptist, and preceded by a Lutheran, each of whom believes that divine light shines exclusively on the followers of his opinions.

There is at Amsterdam a community of quakers. These men of peace, these enemies to war, might well tremble, when they perceived the Prussian army approaching. In the name of the chief of the republic, to subdue or cut the throats of the good people of the country, who desired to be governed by a constitution more wise and less complicated than that of Holland.

I must not omit mentioning, that this republic comprehends not only the Seven United Provinces but dominions in different countries, which are called the country of the States General: these are situated partly in Brabant, and partly in Flanders. The cities, under the dominion of Holland, which are situated on the confines of the German empire, have given occasion to a treaty, known under the name of *the barrier treaty*.

The

occasion, and the commanding officer receives his orders. The military power, being in the habit of obeying the civil power, feels no disgrace from this subordination, which is so conformable to the principles of good policy.

As the provinces of Holland and Zealand have formed but one government, so they continue to have in common two courts.

The first, which is called the *grand council*, is composed of twelve counsellors; nine for Holland and three for Zealand: of this tribunal the *stadtholder* is president; and it is the supreme court in all criminal causes.

The second is called *the court of Holland*, or *the provincial court of justice*: it is formed of eight counsellors for the province of Holland, and three for that of Zealand. The president is chosen from the counsellors of the two provinces alternately. An appeal from this court can only be made by presenting a petition to the states of the province; and if the states do not think the reasons assigned for an appeal sufficient, they dismiss it.

It would be useless to dwell on the ecclesiastical laws of Holland. Though the reformed religion prevails there, toleration is generally established.

The English presbeterians have meeting houses at Rotterdam, Leyden, the Hague, and Amsterdam: and the Roman catholics have near a hundred and twenty in the province of Holland, under
the

the direction of so many priests. A small body, devoted to the doctrine of Jansenism, are willing to have it believed, that they have taken refuge in Holland, in order to shelter truth from persecution; but no power took notice of their sect, and it was suffered to die away in obscurity. It is no unusual thing to meet, in the Dutch provinces, a Jansenist, followed by an anabaptist, and preceded by a Lutheran, each of whom believes that divine light shines exclusively on the followers of his opinions.

There is at Amsterdam a community of quakers. These men of peace, these enemies to war, might well tremble, when they perceived the Prussian army approaching. In the name of the chief of the republic, to subdue or cut the throats of the good people of the country, who desired to be governed by a constitution more wise and less complicated than that of Holland.

I must not omit mentioning, that this republic comprehends not only the Seven United Provinces but dominions in different countries, which are called the country of the States General: these are situated partly in Brabant, and partly in Flanders. The cities, under the dominion of Holland, which are situated on the confines of the German empire, have given occasion to a treaty, known under the name of *the barrier treaty*.

The

The nobles and cities in these dominions of the republic, and particularly in Brabant, made many attempts to become members of the ~~state~~, and to have, in that character, a right of suffrage in the ~~state~~ general. They afterwards lowered their demands to the request, that they might have at least the same prerogatives granted them as are enjoyed by the country of *Drenthe*: but both these petitions have been rejected, under pretence that their country was subjugated by arms.

This refusal was impolitic, and contrary to the system adopted by the Romans; who were wise enough to unite to their republic the cities which they conquered in Italy; and to give to their inhabitants the rights of citizens. The most effectual means of securing the fidelity of a conquered country, must certainly be, to unite them at once to their conquerors, by the same constitution; allow them to participate the same privileges, and thus incorporate them with the triumphant nation. The conquered and the conquerors, thus becoming one people, would repel, with mutual accord, whatever usurper should attempt to separate them.

France is at this moment more certain of preserving Corsica, and all her conquered provinces, by the single power of the laws, than she would have been by garrisons, which must have weakened her own defensive strength. It is true that, in order to attach

a van-

a vanquished nation to the constitution of the victors, it must appear to them superior to their own: and that is one of the reasons which must determine the French legislators to perfect, as much as possible, the constitution, on which they are labouring with so much perseverance. What a glorious field is now opening to their spirit of justice and patriotism! They have no more obstacles to overcome: all have yielded to their efforts; and so far from having any thing to contend with in the royal authority, it leads them on, and covers them with its banner. These two grand powers, after having shewn themselves in opposition, have now united; and each is become more strong by the union: gratitude and affection from their mutual bands; they march in consort; and bear down every thing that would oppose them. Abuses, ancient prejudices, disappear before a love of general good, and the laws of justice. The desire of the monarch is no longer distinct from the wish of the nation; but, what one proposes, the other seems already to have conceived. How different is this extraordinary and affecting spectacle from what is seen in other countries, and what sentiments of equity and virtue must it inspire in the beholders? Surely nothing more is necessary, for establishing public happiness, than this accord between the power which demands, and the power which consents! Let these beneficent authorities therefore be no
more

more troubled or alarmed: all that they require, in return for their labours, their privations, their sacrifices, is only to see the people enjoy in peace the fruits of justice. Let then the poor forbear to exaggerate their misery: let the rich forbear to regret their chimerical honours: let industry exert itself at the prospect of those advantages which are offered to its view: let the bad citizen abjure his guilty principles; let him say no more with a spirit of wounded pride that there are no longer estates, no longer honourable professions, for never was there more encouragement for talents and virtue. Let him obtain the public esteem, and he will find in that the profit of all offices: let him be religious, and all ecclesiastical dignities will be his patrimony: let him possess courage, and acquire military skill, and there is no rank to which he may not arise. Is he ambitious of approaching his prince, and serving him as an escort? Never was any person more easy of access: no recommendation but that of being a good Frenchman, and a zealous citizen, is necessary for gaining admission into the sojourn of kings.

C H A P. XXII.

OF THE CONSTITUTION OF ENGLAND; AND OF
THE ORIGIN OF ITS LAWS *.

A GRAND career is at this moment opening to my view. I am going to run over the constitution of England : that constitution which Montesquieu so highly admired ; and which he has celebrated with so much skill, as to subdue those prejudices, those partialities, which domineer over our minds, and will not allow the free exercise of the judgment.

In

* It will be proper here to warn the reader not to receive too implicitly the following sketch of the English constitution. Though sufficiently accurate, according to the common representations, it must be ever remembered that the author is a foreigner, and is writing throughout with a view to the affairs of his own country : in relation to which he is to be undoubtedly considered as devoted to the predominant party. In the short limits of detached notes it would be impossible to correct all his errors, and supply all his deficiencies : what may seem most essential in both respects I shall occasionally do ; and shall content myself, in general, with referring, (beside the authors mentioned by M. de Croix, and our more popular historians) to a late publication on the English Government, by Professor

In order to make my course more certain, I shall take for my guides the Abbé de Mably, M. de Lolme, the author of *the Spirit of Laws*, the work published under the title of *the Farmer of New Jersey*, and in fine, the learned Blackstone. I shall compare the ideas of these several authors, and adopt those which seem best supported by proofs, and have the general opinion in their favour.

When Cæsar carried his arms into Great Britain, the people of that island had nearly the same religion, the same government, and the same customs with the Gauls, before that nation was subjugated to the Roman empire. Both nations, upon be-

Millar of Glasgow; to the chapters on the constitution in Doctor Henry's unfinished History; to the Parliamentary History; and to Mr. Reeves's History of the English Law: neither of these works, however, nor perhaps any work hitherto published, ought to satisfy a reader who wishes to be a perfect master of the subject: he must draw from the fountain head; he must read, and digest for himself, our ancient records and documents; and more especially the rolls of parliament in the original, which have been in many places inadequately, and in some, very erroneously abstracted in the Abridgment passing under the future name of Sir Robert Cotton. I shall mention one instance to put historians on their guard. The issue of a most important struggle between the crown and parliament in the 15th and 17th years of Edward the Third, has been most strangely perverted by Sir Robert Cotton; and the Commons have been represented as speaking a language of servility, directly contrary to the repeated remonstrances of their genuine petitions: I am sorry to add, that Sir Robert Cotton has mislead all the historians I recollect to have seen.

coming

coming slaves, adopted the vices of their conquerors: and as those vices had exposed the Gauls to the attacks of the Burgundians, the Vice Goths, and the Franks, so they left the Britons without defence against the Anglo-Saxons and the Danes, who seized the opportunity, and enslaved them.

This people, who were of German origin, had the same manners and politics with the Germans: and notwithstanding all the revolutions which England had experienced, it preserved the precious remains of Germanic liberty, even to the time of its being invaded and conquered by William Duke of Normandy.

Norman customs * were now substituted for those Germanic laws, which the last Saxon king had revised and formed into a regular code. The feudal government was established in England, but the authority

* The feudal law which was common to the northern tribes, had not been unknown to our Saxon ancestors; but though they were familiar with grants, which were precarious, or which endured for a term of years, or during the life of the feudatory, they had seen few examples of the perpetuity of the fief. They had not been accustomed to the last step of the feudal progress; but a tendency to its establishment was seen among them; and if the invasion of William had never taken place, the institutions of this law had yet arrived at their highest point. *Stuart's preface to Salic's Lectures.*

It must however be observed that this question, how far the feudal law prevailed among the Saxons, has been a subject of much controversy. An account of the principal authorities on each side is to be found in the 1st chapter of Reeves's History of the English law.

Nothing can be less true, than that William wholly substituted the

authority of the first *Suzerain*, or Lord Paramount, was more accurately marked than it was in France at the same period, because the English form of government was the work of a prince, ambitious, a conqueror, and jealous of his power : and who, having voluntarily given rewards to those officers by whom he had been served in his expedition, was free to require from them whatever conditions he chose, in return for his favours.

William divided England into seven hundred baronies ; and the immediate dependence of these upon the crown, gave him absolute command over their respective lords.

“ In the age of William (says the Abbé de Ma-
 “ bly) there existed no power which did not abuse
 “ its strength : and the more rigorous the yoke
 “ imposed by this conqueror and his successors
 “ became, the more the English, who had been de-
 “ prived of their ancient laws by a sudden revolu-
 “ tion, regretted that liberty, the remembrance of
 “ which there had not yet been time to efface.”

The Normans themselves, when they compared their condition with that of the barons of Normandy, felt their gratitude lessen towards a sovereign,

Norman customs for the Saxon code. He twice confirmed the laws of Edward the Confessor ; once, as we are told, in the fourth year ; and again, as it appears from Ingulphus, about the sixteenth year of his reign. Among *eighty-one* chapters of William's laws, *fifty* consist of the Saxon laws confirmed by him.

who had not conferred upon them such extensive benefits as he possessed the power of conferring; and they became inquiet and dissatisfied. After favouring the enterprizes of the prince to whom they owed their fortune, they soon began to fear that arbitrary authority which had enriched them with the spoils of the vanquished; and which might also despoil them in turn. They perceived the necessity of having laws to preserve their new possessions: a general discontent united them and the English, who suffered as much at present as the others feared they might suffer in future; and thus, their interest being the same, their weakness served as a bond of union between them.

It was, according to M. de Lolme, under Henry I. near forty years after William had conquered England, that all parts of the state began to act in concert, for obtaining some defence against the power of despotism.

“ This prince (continues M. de Lolme) having
“ ascended the throne to the exclusion of his elder
“ brother, was sensible that he had no other means
“ to maintain his power than by gaining the affec-
“ tion of his subjects; but, at the same time, he per-
“ ceived, that it must be the affection of the whole
“ nation: he, therefore, not only mitigated the ri-
“ gour of the feudal laws in favour of the lords, but
“ also annexed, as a condition to the charter he
“ granted, that the lords should allow the same free-
“ dom

But the people, when they could no longer refer to the charter, to inform themselves, supposed it much more favourable to liberty than it was in fact.

The general fermentation continued during the reigns of Stephen, Henry II. and Richard I. These princes knew at least how to direct their authority: but John Lack-Land, who succeeded his brother Richard, brought to the throne all the imbecility of a contemptible and contemned despot. This king had so little address as to inflame all classes of men against him. The indignation became general: and the monarch, left by himself, was destitute of support. Thus assailed by all the malecontents, who formed the whole nation, he was obliged to submit to the direction of his subjects, and to sign what is styled *Magna Charta*, or the great charter of England.

If this charter had been granted to the demands of the lords alone, it is probable they only would have been favoured in it, by the abrogation of the most tyrannical part of the feudal laws: but all the people were in arms, and equally demanded justice. and “ It was hence instituted by the great charter, “ (says M. de Lolme) that the same services, “ which were remitted in favour of the barons, “ should be in like manner remitted in favour of “ their vassals. This charter moreover established “ an equality of weights and measures throughout “ England; it exempted the merchants from arbitrary imposts, and gave them liberty to enter and

“ dom to their respective vassals.” By this means, he extended his favour to two classes of proprietors.

“ Care was even taken (says M. de Lolme) to abolish those laws of the conqueror which lay heaviest on the lowest class of the people :” and, in fine, Henry granted a charter to his subjects, by which the ancient immunities of the Germanic government were re-established. But it is evident that his only design was to allay the general inquietude, by a false appearance of justice and benevolence; for he was often obliged to calm the storms which threatened his authority, by renewing the oaths which bound him to the faithful performance of his promises.

If there be in kings so little disposition to execute laws, of which they have been themselves the authors, how much reason is there to fear their deviating from those which have not been their own work !

The successors of Henry endeavoured to make the nation lose even the remembrance of the charter which they had obtained from him. They caused it * to be secretly taken from all the places where it was deposited; and there were soon no traces of it, except its name, to be discovered.

* This cannot be true, for Stephen, and Henry the II. both of them granted charters renewing and confirming the charter of Henry the I. This would have been a very ridiculous mockery, if the charter so renewed and confirmed was then merely a name.

But

But the people, when they could no longer refer to the charter, to inform themselves, supposed it much more favourable to liberty than it was in fact.

The general fermentation continued during the reigns of Stephen, Henry II. and Richard I. These princes knew at least how to direct their authority: but John Lack-Land, who succeeded his brother Richard, brought to the throne all the imbecility of a contemptible and contemned despot. This king had so little address as to inflame all classes of men against him. The indignation became general: and the monarch, left by himself, was destitute of support. Thus assailed by all the malecontents, who formed the whole nation, he was obliged to submit to the direction of his subjects, and to sign what is styled *Magna Charta*, or the great charter of England.

If this charter had been granted to the demands of the lords alone, it is probable they only would have been favoured in it, by the abrogation of the most tyrannical part of the feudal laws: but all the people were in arms, and equally demanded justice. and “ It was hence instituted by the great charter, “ (says M. de Lolme) that the same services, “ which were remitted in favour of the barons, “ should be in like manner remitted in favour of “ their vassals. This charter moreover established “ an equality of weights and measures throughout “ England; it exempted the merchants from arbitrary imposts, and gave them liberty to enter and

“ depart the kingdom at pleasure: it even extend-
 “ ed to the lowest order of the state, since it enact-
 “ ed, that the *villain*, or bondman should, not be sub-
 “ ject to the forfeiture of his implements of tillage.”

Of the twenty-ninth article of this famous charter, which includes the most celebrated provisions for the protection of civil liberty, I shall give a literal translation.

* “ No free man shall be arrested, or im-
 “ prisoned,

* I have substituted a new translation from the original, instead of translating from the French of M. de la Croix. His version is by no means literal, nor indeed faithful to the sense: but this may be well excused in a foreigner, when some of our best informed writers are not perfectly agreed on the meaning of every part of this important chapter, so often quoted, explained, and enforced, within the last five hundred years.

In one particular passage (*Nec super eum ibimus, nec super eum mittemus*) I have followed the commonly received interpretation, which is that of Lord Coke: it has however been questioned, I think with reason, by a late learned writer in his History of the English Law. His paraphrase is as follows. “ Nor will we take
 “ possession in person, or by our officers, of his effects, but by
 “ the judgment of his peers, or by some other legal process or
 “ proceeding, adapted by law to the nature of the case,”

This construction will make the provisions of this clause extend to protect the subject in all points, in his *personal liberty*, in his *real* and *personal property*, which last would otherwise be left unguarded. “ As the former expressions of this chapter
 “ (observes Mr. Reeves) apply to the *person* and the *freehold*, it
 “ seemed natural to add such as would protect the *goods* and
 “ *chattels* :” and he quotes the authority of the civil law for this
 technical

“prisoned, or disseised; or be out-lawed or
 “exiled, or in any manner destroyed. Nor
 “will

technical use of the words *ire* and *mittere*, to go and to send.
IRE in bona alicujus dicuntur, qui in rerum possessionem a magistratu
MITTUNTUR. Calv. Lex. Jur. Ire.

To this may be added a still better authority in the present case—an authority not so much consulted as it ought to be in all elucidations of our great charter—I mean the *capitula* or heads of the charter as originally agreed between the barons and the king. The correspondent passage there is, *nec rex eat vel mittat super eum vi*: *Nor shall the king go or send upon him BY FORCE.* This last word, which is omitted in the charter itself, is perfectly consistent with the interpretation of Mr. Reeves, but utterly inconsistent with the interpretation of Lord Coke, who refers the words to the judicial proceedings of the King’s Bench, before the king in person, and in other courts acting under his writ.

Mr. Reeves, from his knowledge of the language used in our ancient law, has also been able to make another new remark on the concluding words of the sentence, “Unless by a legal
 “judgment of his peers, or by the law of the land.” The trial by jury, he says, was never spoken of in these days as *judicium* (a judgment) much less *judicium parium* (a judgment of a man’s peers). We hear of *veredictum*, *juramentum legalium hominum*, *jurata vicini*, and the like, all expressive of some *sworn truth*, or of the persons who swore it coming from the *vicinage*: whereas the *peers of the realm* gave judgment and not upon oath; so did the *señtatores*, as they were anciently called in the county and other courts, who were the *peers of the free men of the country*; and these latter came from the body of the county and not from the vicinage. But although the strict acceptation of the words used in the charter does point rather to the judgments of the freeholders in the county courts than to the trial by jury, yet the principle

neglect has been the want of concord, which prevailed until the present time, among the different classes

of the French monarch; when the death of John restored public tranquillity, and a long minority, an interval in which the government is always necessarily weak, confirmed the liberties of the people. Nor can we fairly boast, that the ancient barons of England possessed more public virtue than the nobles of France. In fact, the difference in the political condition of the two countries seems to have arisen from a leading and essential difference in their circumstances. England, from her insular situation, soon became a commercial country; and for the protection of commerce, privileges and immunities to cities and towns were found necessary. The Saxon laws of Athelstan, it is well known, conferred nobility on all merchants who had made three voyages at their own charge; and the three principal ports of the kingdom (which, with the two added by William the Conqueror, constitute the cinque ports) are said to have had their peculiar immunities and privileges granted them in the time of the Saxons. An effect, which can only be attributed to our comparative success in commerce as the cause, is recorded in an old Latin writer, published in Du Chesne's collection; and it is a fact very material to the present purpose. He says that "William the Conqueror, on his first return to Normandy, brought with him as much gold as was hardly to be found in all France: for," observes he, "England much exceeded France in the abundance of precious metals." *Gest. Gul. Conq.* p. 210.

The foreign maritime dominions of our Norman sovereigns must in course have increased our trade; while their necessities, occasioned by their foreign expeditions, and domestic contentions, led them to encourage the purchase of charters and franchises, by cities and towns, as one mode of raising money without parliaments.

The

classes of subjects ; and that unfortunate *division of orders*, in consequence of which the king could always

The law too favoured these corporations ; for a *native villain* became actually free, by residing a year and a day in any privileged town, and being received into their guild as a citizen of the place : thus the cities, towns, and boroughs, became receptacles, and asylums, for all the growing freedom, industry, and wealth of the country.

But what seems to have been a circumstance of the first importance is, that, in this country, the capital of the empire has ever been the capital of commerce also : the great leaders of the aristocracy of mercantile wealth were consequently in more perpetual and immediate contact with the principal members of the aristocracy of landed property ; and the true weight of the monied interest, in the political scale, was more early felt and acknowledged.

The riches and importance of the city of London were strongly expressed by Henry III. when he said, “ those London clowns, “ who call themselves barons, abound in wealth even to surfeiting ; “ that city is an inexhaustible reservoir of opulence.” *Mat. Paris*, an. 1248. The conduct of the city of London was suitable to her circumstances. In all the civil wars, down to the great rebellion, in the reign of Charles I. the city of London was a principal party ; particularly in the glorious opposition which extorted the great charter from King John, London led the way in declaring for the barons ; and, among the twenty-five barons who were chosen conservators of the public liberties under the great charter, the mayor of London was one. With the importance of London was inseparably connected the importance of all the other cities, towns, and boroughs through the kingdom : her services could not be rewarded by any provision that did not in principle extend to include them ; protection could not be given to her rights in *the bonds of the great charter*, without inducing, in the same sentence, some mention

If four of these barons found such complaints to be just, they were to address the king, or, in his absence, the chancellor, to demand an equitable reparation. If, within forty days after this demand, the party aggrieved was not satisfied, the four barons gave an account of their proceedings to their colleagues; who, directed by a plurality of voices, took such measures as were judged expedient for obtaining justice. They had a right to arm the commons, and compel the king, by pillaging or seizing his domains, to repair the wrongs which he had done.

Without * approving the violent measures of pillage, or seizing the royal domains, I cannot but acknowledge, that, if all barons and all nobles had forbore to employ their ascendancy over nations, except for thus making the laws respected, as the protectors of the subjects; and for forcing the supreme authority to repair its acts of injustice; they had always appeared too precious to the people, and too necessary to their happiness, to allow of that peo-

* Instead of intimating a disapprobation of these measures, (the most lenient and least violent which could be well devised to compel redress, when force was once made necessary by the refusal of the king), it would have been more candid in the author to have mentioned, with due praise, the exception which follows:—" *that in all cases, the persons of the king, the queen, and their children shall be safe.*" But any commendation on this liberality of spirit, in a barbarous age, might have reflected too much discredit on some late barbarisms of the present *liberal* age in France.

ple

ple ever becoming jealous of their existence, and seeking to degrade them.

Under the long reign of Henry III. the dissensions between the king and the barons held England in a state of agitation. But though the former triumphed in the end over the arms of the latter, as the Earl of Leicester, their leader, had found a sufficient number of partizans for making head against the monarch, and occasioning a civil war, the monarch, though victorious, was not sufficiently powerful to exalt himself above the laws. The laws formed the object which employed all minds; it was for them that the combatants had exposed their lives; and the nobles perceived the necessity of strengthening themselves with the love of the people, in order to repel that power which sought to crush them by its weight.

* The Parliament, to which London and some other considerable cities had exclusively sent representatives,

* It is perhaps almost superfluous to advertise the reader that it has long been a question much agitated, whether the writs of 49 Hen. III. did or did not introduce any alteration in the constitution of parliament. The opinion, however, which seems to have the better foundation, is contrary to the account here given by M. de la Croix, probably on the authority of Mr. Hume.

It is certain at least that knights of the shires made their appearance in parliament before 49 Hen. III. Among the very imperfect remains of our old records, there are writs extant, to summon knights from the counties, in 15 John, 32, 38. & 42. Hen. II. It is true indeed, that we have no writs before 49 Hen. III. which summon *citizens and burgessees*, but there are strong

sentatives, now admitted deputies from the boroughs, and from all the counties : and this assembly, so necessary

presumptions and collateral testimonies in favour of the antiquity of this part of our representation.

There is one great, broad fact, which furnishes a very forcible inference. It is an observation of several of our antiquaries, that many boroughs which cannot be shewn to have received any charter since the conquest, and which since that period have never been of any consideration, but in total decay, have yet seats in parliament, which, it is argued, must be from old prescription. This, however, is only presumption ; what follows is more direct testimony.

The statute of 5 Ric. II. "that every one to whom it belongeth, shall upon summons come to parliament," holds very remarkable language. It talks repeatedly of the practice of the OLD TIMES : *of cities and boroughs which be bound, and OF OLD TIME were wont, to come to parliament ; and of the custom or common law " IN TIMES PAST"* by which a sheriff was to be fined for omitting any parliamentary city or borough out of his returns. This could not have been the language of parliament, if cities and boroughs had not been present in parliament more *than a hundred years*, which was nearly the period from 49 Hen. III. to 5 Ric. II.

But the record which is of the most precise and conclusive authority, is the petition of the borough of St. Albans, on the rolls of Parliament, in the 8th year of Edward II. The petition complains that the sheriff of Hertfordshire had corruptly omitted the borough of St. Albans in his returns, and the right which the burgesses claim, is a *right by prescription*. They say that they hold the town of the king *in chief* ; that they, like other burgesses of the realm, ought to come by two of their fellow-burgesses to the king's parliaments, whenever a parliament is called, as *they used to come in ALL TIMES PAST* (prout TOTIS RETROACTIS TEMPORIBUS *venire consueverunt*) there to do all manner of service to the king : they then

necessary to the preservation of English rights, thus acquired new force, and rendered liberty more dear
to

then proceed more particularly to specify a legal prescription ; for they say, that they and their predecessors have always performed such services *as well in the time of our Lord Edward, late king of England*, THE FORMER KING, AND THEIR (OR HIS) PROGENITORS, (tempore Domini E. *nuper Regis Angliæ*, PRIORIS REGIS, & PROGENITORUM SUORUM) as in the time of the king, that now is, always till the present parliament ; and they refer for proof to the rolls of chancery. The answer directs, that the *rolls of chancery be searched*, whether the said burgeses were wont to come, *or not*, IN THE TIMES OF THE KING'S PROGENITORS, and that justice be done them.

Now here we have a prescription claimed. The period of legal memory is the reign of Richard I. and accordingly the claim refers expressly to the reign of Hen. II.—to the time of the late king Edward I. the former king, that is Henry the III. and *their* (or his) PROGENITORS, which must at least carry us back to his *grandfather*, Henry II. beyond the limit of legal memory. It must be further observed, that the burgeses prescribe for a right of coming to parliament by representation,—by *two of their fellow-burgeses*. Let us here state a little more particularly the opinion of those to whom M. de la Croix inclines. It is pretended that the parliament called by the Earl of Leicester in the 49th of Hen. III. was the first in which knights from all the counties, and citizens and burgeses, from all the cities and boroughs made their appearance : that the new form of parliament then introduced, was immediately laid aside again till the 23d year of Edward I. when it was revived and thence regularly continued. What then was the distance of time when the petition of the burgeses of St. Alban's was presented ? *Not fifty years* from the time of Leicester's parliament, and *not twenty years* from the supposed revival of representatives from the counties, cities,

to all : for the power of the commons, who were more friendly to repose than the nobility, tempered the impatient

and boroughs. Many persons present in parliament at the time of this petition must have remembered both parliaments of 23 Edw. I. & 49 Hen. III.; and not a few probably had been themselves present in that of Edward I. Could then such a petition have been offered to such men and not have been rejected with indignation at the first glance? What must have been the necessary answer? Must it not have been this? “Your claim is palpably and notoriously false. You insist on a prescription from the time of Henry II. before the beginning of legal memory, when we have all of us heard, and some of us personally know the recent origin of all representation of boroughs.” But what was the answer? It was a grave and solemn reference to the chancery rolls to determine the truth of the claim, that justice might be done.—I do not mean to overstrain the force of this record. But the conduct of parliament carries us indisputably beyond the 49th of Henry III. and affords strong presumption of an antiquity as early as Henry II. though it cannot be considered as absolute proof.

It is candid to mention, that the authors of the Parliamentary History do glance at this record; but they do not carry it so high, as it clearly goes. They had in truth never seen the petition itself. They refer to Selden’s account of it in his *Titles of Honour*, p. 709; but I can neither find it there, by that reference, nor by the index to his works. I know not, therefore, how he has urged the argument. The petition and answer are to be seen in the printed *Rolls of Parliament*, Vol. I. p. 327.

Though any arguments drawn from the silence of our more early historians, could not avail against such a document, it may not be improper here to suggest one or two observations on that head.

Mathew of Paris frequently notices the presence of other orders beside those who in modern times are only distinguished as barons, and who began in his time to be so distinguished without any ad-

impatient and military genius of the barons, too much inclined to employ force in defending their privileges,

dition discriminating them as the greater barons. The first convention or parliament of Henry I. was attended as he tells us by the clergy and *the universal people*. In the 8th year of Henry III. he says the king met in convention or parliament at Northampton the archbishops, bishops, earls, barons, and MANY OTHERS; and the next year at Westminster the same king assembled the archbishops, bishops, earls, barons, and ALL OTHERS OF THE REALM (CUM ALIIS UNIVERSIS), that is, *all others*, not spiritual or temporal peers, *who had seats in parliament*.

The charter signed by Henry I. at his coronation is preserved by John Brompton, and there, as well as in the copy entered in the red book of the Exchequer, it is witnessed by archbishops, bishops, earls, barons, *sheriffs*, and THE BEST MEN (*optimatibus*) OF THE WHOLE KINGDOM OF ENGLAND. The *best men* (*optimates*) here present must be meant of some order of men distinct from the earls and barons, and ranking under the sheriffs of counties.—William of Newburgh, who almost always uses the term "*optimates*," to express the whole body of parliament, applies also the same word, as well as the appellation of *nobles*, to the principal *citizens of London*, in the 20th chapter of his 5th book, where he gives an account of a conspiracy in London.

But there is a passage still more explicit in Radulphus de Diceto. It recognises the presence of a distinct order of men subordinate to the *knights*, who are also present. This was in the reign of Henry II. That king in his 22d year called a convention at Northampton, and there confirmed the statutes of Clarendon made before by him, and appointed justices, who were sworn to observe them. And this was done (says the historian) with the consent of the bishops, earls, barons, KNIGHTS, AND OTHERS OF HIS SUBJECTS. *Coram Episcopis, Comitibus, Baronibus Militibus, & ALIIS HOMINIBUS suis.*

privileges, and put the parliament in a capacity of acquiring new rights without having recourse to arms.

Edward

Indeed, if none of our more early historians had left any traces of such a distinction, their silence would not have afforded any decisive inference. The knights, citizens, and burgessees, it should seem, might be generally included in the terms of the "*King with his Barons*," or "*his whole Baronage*," and more especially in the phrase, once used by Mathew of Paris, with *the Baronage of the universal realm*, "*cum universitatis Barnagio*." The appellation of *Baron* was anciently used to signify a *free-holder* in general ; and under the name of the *Barons of a County*, Spelman says, not only the greater barons and lords of manors, but *all free-holders* of that county were understood. In the same manner the *whole Baronage* or *the Baronage of the universal Realm*, would mean not only the greater *Barons*, who had a right to a special summons, but all the *free-holders of the kingdom*, virtually present by representation : and we have positive proof that the citizens and burgessees of other cities and good towns, beside the Cinque Ports, were at first styled *Barons*. This is remarked both by Spelman in his Glossary, and Selden in his Titles of Honour. The citizens of London are called barons in the charters granted to them by Henry I. John, and Henry III. as well as other old records. Spelman instances too *the Barons of York, Chester, Warwick, Feversham*, and many other towns ; and Selden, Vol. III. p. 717, quotes a close-roll of 16th John, endorsed to *the Barons of Yarmouth, Ipswich, Norwich, Orwell, Shoreham, Portsmouth, Exeter, Boscum*, and so forth. I know not the contents of this roll, but I think it worthy the attention of our professed historians. It may possibly prove a writ of summons to parliament, and would then be direct evidence ; at any rate it shews the citizens and burgessees to have been called *Barons* in the time of John, though, from the language of Mathew of Paris,

where

Edward I. who, by the wise and numerous laws which he instituted, obtained the appellation of the *English Justinian*, was aware that nothing but the exact administration of justice could enable him to govern a turbulent body of nobility; and that to tranquilize the people he must insure to them their possessions.

At that period the commons had not the same preponderance in parliament which they hold at this day. It is their fate to share the humiliated condition of the people, until they raise themselves to that natural equality, which seems as if it ought to prevail among all mankind.

The summons which the lords receive from the king to attend the parliament, imports that they are to assemble, *arduis negotiis tractaturi, & concilium impensuri*, for treating of arduous business, and giving their advice. That of the commons expresses that they are to meet *ad faciendum & consentiendum*, for doing and consenting.

Notwithstanding the unwillingness of Edward to consent to Magna Charta, he found himself necessitated to confirm it, and to make a statute † by which where he gives that title to the citizens of London, it appears that it was not then commonly applied to other citizens and burghesses. The name was changed in the time of Henry III. and that may have misled subsequent historians as to the fact.—Mr. de la Croix might here have remarked, if he had pleased, that the cities and good towns of France undoubtedly had deputies in the states-general, so early as 1240, or the 25th year of our Henry III.

† The statute *de Tallagio non concedendo*.

it is declared, that *no impost shall be levied without the consent of the peers and the commons*. This statute, and Magna Charta form alone the two great pillars of the Constitution of England.

Whilst the commons of England were exalted to a level with the sovereign power, by their exclusive right of granting or withholding the subsidies; and while the nobles had with them but one common cause, and united in forming a rampart against tyranny, France presented a very different spectacle. There the nobles oppressed the peasants and insulted their weakness. “When a gentleman” (says Mezêray) “met the peasant he had pillaged, he called him in derision *Jacques bon homme*,” and it was this which gave rise to that horrid sedition distinguished by the name of * *Jacquerie*, which
cost

* In the comparison here made of the state of England under Edward I. with the miseries of France at the period of the *Jacquerie*, the author has been highly uncandid to his own country. It is by no means fair to contrast with the political situation of the *Freemen* in one country, the condition of the *Peasants* in the other; because in both countries the *Peasants* were at that time mere slaves, and as such, were no members of the political community in either.

He has been guilty too of some anachronism and misrepresentation of facts for the purpose of degrading ancient France. The rising of the *Jacquerie* did not take place till the year 1357 and ended in 1358, full *fifty* years after the death of our Edward I. and not above *twenty* years before a similar insurrection here under Tyler and Straw, for the same declared purpose of exterminating the gentry; an event in our history to which it would have been more correct in all points of view to have compared the *Jacquerie*.

It

cost the nobility so much blood, and was appeased only by the destruction of so many thousands of unfortunate.

It is true indeed that Mezeray does give the derivation, which Mr. de la Croix at once adopts, of the term *Jacquerie*; and that he thinks it the most probable derivation; but he at the same time assigns two other etymologies, *one* of which may be preferred,—I mean the derivation of the name from that of their first chief *Jacques Bons-homs*.

As to the occasion of the insurrection, Mr. de la Croix is still more unfair. Mezeray does not impute it to any actual and immediate oppression—indeed the situation of France was such as probably to leave the peasants more than usually free, in the midst of civil contentions for a disputed succession, and after the great slaughter of the principal nobility at the battles of Cressy and Poitiers:—but he represents it as the *brutal* project of a few drunken peasants for the reform of the state. Twenty or thirty peasants at Beauvais (says he) “*getting too much wine into their heads, one Sunday fell into*” “*discourse on affairs of state, and the miseries of the time.*” Some “*of them complaining of the nobility, that they had abandoned their*” “*Prince (the Dauphin) did not oppose, as they might, the progress*” “*of the English, and took no care for the deliverance of the king, (then*” “*a prisoner in England;)* that they were monsters who devoured “*other men,*” (Mr. Thomas Payne’s own new simile!) “*and*” “*that they used their swords only to slash the arms of their vassals,*” “*the company heated by this brutal reasoning (as the historian*” “*literally calls it) resolved on the total extermination of the gentry;*” and proceeded to the instant execution by demolishing the next *chateau*, and murdering the master, his wife, and family. No man who reads this account, and thinks for an instant of the scene, the time and place (*a Sunday’s conversation over a bottle*) and the first leading topics of complaint, but must attribute the insurrection rather to the licentiousness of the peasantry, than the oppression of the gentry. The insurrection in England under Tyler and Straw, arose
imme-

unfortunate creatures, who were massacred without pity.

It was then that France had indeed cause to mourn at seeing her children slaughtered, and cruelties heaped on cruelties, for no other end than to satisfy a lust of vengeance! And yet we have heard some orators compare the present progress of reason and of natural privileges, to those times of barbarism and ignorance! Undoubtedly it was to be desired that the degrading servitudes could have been abolished; unjust privileges suppressed; order established in the finances; justice purified; and religious worship led back to the simplicity of its origin, without the effusion of blood, and without violence. But can we compare the number of victims sacrificed by some seditious persons whom immediately from a very oppressive tax, collected by the king's officers in the most wanton and offensive manner.

If Mr. de la Croix had wished to do his country honour, he might have found many grounds of just praise to France about the period of the *Jacquerie*, and still earlier. The commons of France, headed by their speaker Stephen Marcel, provost of Paris, (whose motives and conduct however I do not altogether approve) exerted themselves with spirit in 1355. They made a famous declaration of their independence, which was afterwards turned into an ordinance or statute, by which the consent of any two of the orders was declared not to bind the third. But this law, which has ever since been considered as a fundamental law of the states-general, and which is even laid down by some of the best jurists, as a fundamental principle of all mixed governments, was overturned in 1789. To effect this, gave occasion to the great struggle. Any panegyric, therefore, on the states-general of 1355, would have been a condemnation of the late Revolution.

the

the nation disclaims, to this innumerable multitude of lords and vassals, who perished while France could find no consolation under her present evils in the hopes of a happier hereafter ?

Under Edward the II^d. the commons began to unite petitions to the bills by which they granted subsidies. And under Edward the III^d. they declared that they would from that time acknowledge no laws but those to which they had given their consent.

Under * Henry the IVth they refused to grant any subsidies until they had received answers to their petitions.

Under Henry the Vth the attention of the nation was wholly engaged by the wars with France.

Under Henry VI. the fatal contest between the houses of York and Lancaster began : and the English neglected their own interest in embracing with so much warmth the interests of the two houses which disputed for the crown.

They were too much wearied from the battles they had fought ; and had suffered too much from their factions, and from the horrid scenes presented by them to Europe, not to desire repose, when Henry the VIIth came to the throne ; who, finding his subjects in this kind of drowsy stupor, flattered himself that

* The proceedings of the first two or three parliaments of Hen. IV. are worthy of serious attention. The prerogatives of the crown, and the privileges of the other branches of the legislature, were then accurately limited and ascertained.

he might, by taking advantage of it, atchieve some exploit against their liberty.

This king began by pretending that in virtue of his royal prerogative, he could exercise all acts of authority ; a power of which some of his predecessors had set him the example. In order to render himself less dependent on the parliament, or rather to render a parliament less necessary, he required subsidies under the name of *benevolences* or free gifts. The nation tolerated this abuse, which gave to the king very great influence in the elections of members of parliament : while by loading with favours such lawyers as were base enough to pervert the sense of the laws, he obtained interpretations conformable to his designs.

It is evident, from these measures, how much a spirit of domination has the advantage over a people, who do not make the preservation of their liberty their most important concern. Despotism is a foe which winds without ceasing round the fences of liberty, in hopes of discovering some weak part where he may penetrate. Henry, destitute of money, and unable to levy any taxes without the consent of his subjects, endeavoured by changing the name to deceive the people with respect to his raising supplies. He solicited *benevolences*, he opened loans ; for it signified little to him under what form money was raised ; all that he desired was, the means of seducing the guardians of liberty, and the persons who possessed the confidence of the people.

* Just at this time a sudden tempest burst out in the bosom of the state, which threatened to plunge this vessel, distracted by divided interests, into a fatal abyss. Laws and prerogatives were no longer the subject of dispute : it was fanaticism that troubled every mind : and the danger with which the catholics saw their religion threatened, made them wholly regardless of that to which their country was exposed. The nation became divided into two parties ; and “ Both sides” (says Mr. Hume, the most impartial of historians †) “ hoped, by their
“ unlimited compliance, to bring him over to their
“ party ; the king meanwhile, who held the ba-
“ lance between the factions, was enabled, by the
“ courtship paid him both by protestants and ca-
“ tholics, to assume an immeasurable authority ;
“ and though in all these measures he was really
“ driven by his ungoverned humour, he casually
“ held a course which led more certainly to arbi-
“ tary power, than any which the most profound
“ politics could have traced out to him. Artifice,
“ refinement, and hypocrisy, in his situation, would
“ have put both parties on their guard against
“ him, and would have taught them reserve in

* Mr. de la Croix is remiss in not mentioning that it is of the reign of Henry the VIIIth he is now speaking. Persons not conversant with the English history would conclude he still meant that of Henry the VIIth.

† The English reader may perhaps judge a little differently as to the character of Mr. Hume.

“ com-

“ complying with a monarch whom they could
“ never hope thoroughly to have gained ; but
“ while the frankness, sincerity, and openness, of
“ Henry’s temper were generally known, as well
“ as the dominion of his furious passions ; each
“ side dreaded to lose him by the smallest opposi-
“ tion, and flattered themselves that a blind com-
“ pliance with his will, would throw him, cor-
“ dially, and fully, into their interests.”

The French constitution has not this danger to encounter. The reign of fanaticism is past, and though it may throw forth a few sparks, and darken some part of the kingdom with its smোক, it will produce no further evil. Reason has too much enlightened the face of the nation for these subterraneous fires to overpower its brightness, or lead the people astray. The catholic religion is now restored to its natural purity ; the wrath of some of its ministers will never have sufficient power to bring about any change in the nation ; and if they should one day raise a party for endeavouring to overturn a work which has thrown a shade over the pretensions of pride, it would be too weak, even if supported with all the authority of royalty, to reinstate them in their ancient usurpations.

Under Edward the VIth the monstrous laws against treason, invented by his predecessor, were abolished ; but that young and virtuous prince having only passed as it were over the throne,
the

the sanguinary Mary ascended it, and threw England into consternation by her cruelties.

The fanaticism of one part of the nation could alone have afforded her opportunity of exercising her barbarity on those who were devoted to her vengeance. The reign of this odious princess happily terminated in the accession of a young and amiable sovereign, whom policy had preserved from the fate which hatred meditated for her; and which she could not have escaped but by concealing her religious opinions.

Though * the star-chamber, that ready instrument of the tyranny of the two Henries, was still subsisting; though there was still the inquisitorial tribunal of the high commission; yet the glory attached to the reign of Elizabeth; the art with which she managed the aversion of her people for the new subsidies; and the sacrifice which she chose to make of some part of her domains, rather than add other imposts to those with which the nation was burdened, made her government, all despotic as it was, exceedingly dear to her subjects.

Elizabeth had exercised her authority without introducing any false maxims; but James the Ist.

* A curious and interesting history of the Court of Star-chamber and the nature of its proceedings, has been lately printed from an old Manuscript in the 5th and 6th Numbers of a periodical work called *Collectanea Juridica*. The author of the history was a Mr. Hudson who long practised with reputation and success in that court,

in exercising an equal degree of power, betrayed in every instance the principles of despotism ; he had, if it may be so expressed, a tyranny of words, for he was continually repeating, that *the power of Kings could no more be contradicted than the power of God* : and the privileges which the nation claimed so gloriously as a heritage from nature *, were according to him, but indulgences which they had enjoyed under the toleration of his ancestors. Such pretensions announced from the throne, and echoed from every pulpit which was not the seat of truth, spread a universal alarm ; and the press, which multiplies thoughts, and distributes knowledge, was employed to contradict those falsehoods ; and to support that natural and politic system both of which it was the wish of James to destroy.

A sect now sprung up, the followers of which were called *puritans*, who, without avowing as yet their doctrines, endeavoured to overturn the royal dignity, and the prerogatives of the peers, in order to place all families upon a level, and establish a perfect democracy ; while the court-party, extravagant in their principles, and seeing their privileges threatened, set the kingly authority free from all laws. The

* They claimed these privileges not from nature *as the rights of men* ; but from the *laws and the constitution as the rights of Englishmen*. “ If we should yield our liberties to be but of grace (said Mr. Crewe), *these walls that have known the holding of them these many years, would blush* ; and therefore we cannot in duty to our country but stand upon it, that our liberties and privileges are our undoubted Birthright and Inheritance.”

puritans

puritans, ever animated with the same zeal, abolished successively all those scandalous acts, by which the parliament had destroyed ecclesiastical and civil liberty, and had conferred on Henry VIII. the whole legislative power.

The starchamber ; the inquisitorial tribunal ; the martial court ; which only served to give an appearance of legality to injustice and violence, were annihilated. But whatever was the fortune of these two parties, their hatred always increased with their hopes and disappointments.

“ When the puritans (says the Abbé de Mably) were possessed of the public authority, they caused Charles I. to perish on a scaffold : and when the court-party triumphed in their turn, they were not contented with recalling Charles II. to the throne of his fathers, but granted him the most extensive power.”

It is to this period that the beautiful and sublime thought of Montesquieu may be applied. “ It was (says he) a very fine spectacle in the last century to behold the vain efforts of the English, for establishing among them a democracy. As those, who took the lead in affairs, were not actuated by principles of virtue ; as their ambition was inflamed by the success of those who had been the most daring ; and as the spirit of one faction was only repressed by the spirit of another, the government changed without ceasing. The

“ astonished people fought for democracy, but no
“ member of it was to be found : and, in the end,
“ after much commotion; many contests, and disas-
“ ters, they were glad to commit themselves to
“ the very government which they had pro-
“ scribed.”

“ Charles II. (says M. de Lolme) could not
“ bring himself to forgive the people the inexpi-
“ able crime, of which he looked upon them to
“ have been guilty; and, bent upon recovering
“ the ancient powers of the crown, he only waited
“ for an opportunity to break those promises
“ which had procured his restoration.

“ But the very eagerness of his measures frus-
“ trated their success; his dangerous alliances on
“ the continent, and the extravagant wars in
“ which he involved England, joined to the fre-
“ quent abuse he made of his authority, betrayed
“ him. The eyes of the nation were soon opened,
“ and saw into his projects; when convinced, at
“ length, that nothing but fixed and irresistible
“ bounds can be an effectual check on the views,
“ and efforts of power, they resolved finally to
“ to take away those remnants of despotism which
“ still made a part of the regal prerogative.

“ The military services due to the crown, the
“ remains of the ancient feudal tenures, had been
“ already abolished : the laws against heretics
“ were now repealed; the statute, for holding
parlia-

“ parliaments once at least in three years, was now
“ enacted: the *habeus corpus* act, that barrier of
“ the liberty of the subject, was established; and,
“ such was the patriotism of the parliaments, that
“ it was under a king, the most destitute of princi-
“ ple, that liberty received its most efficacious sup-
“ ports.”

One reflection on this subject must present itself to every mind. If the English, with so clear a title as that of their great charter (obtained in the twelfth century) had to struggle without ceasing against arbitrary power, until the middle of the seventeenth century, how must it astonish the people of France, who were far from having such a title to urge, to find themselves arrived already at the point to which all their hopes were directed? The difference between the French and the English constitutions is, that the one will be formed at a single cast: receive its perfection, its solidity at once; while the other will have been the work of many ages. The former will not be cemented by illustrious blood; but, on the contrary, consolidated by the wishes of the prince, and by the unanimous accord of the nation: and proving a source of happiness to all, it will neither be altered nor disturbed by any faction. In a word, this constitution is not the oak which comes slowly to maturity, and runs the risk of being crushed down by the impetuous animals

which may rush against the infant sapling ; but an immoveable colossus, cast with art, and exact in all its proportions ; which will be perceived from every part of the universe, and from which other nations will take models of government *.

“ On

* The vanity, which has so long characterized the French nation, and which was a more operative principle in their revolution than many may imagine, is eminently conspicuous in this comparison of the existing English and French constitutions. Hitherto the reader has seen M. de la Croix, with the most unpatriotic partialities, continually disgracing and vilifying ancient France in contrast with ancient England. Now ancient and modern England, and in them all the boast of liberty in the civilized world, are to bow before regenerated France. The scattered rays of glory, which have given brilliancy to our history for a succession of ages, all concentrated in one point, must now fade and disappear before the burst of new light, which has shone from Paris, to dazzle and consume mankind. We have been taught to admire our constitution, because

'Tis not the hasty product of a day,
But the well-ripen'd fruit of wise delay.

We think it a presumption of its excellence, that (as was said in praise of the Roman constitution) the fabric has been for centuries receiving every addition which fortune and wisdom could bestow. We trust in it, as more likely to answer for the practical protection of the liberty of all, because it has been successively modelled and meliorated by the hand of experience, as real imperfections developed themselves in actual oppressions, and different remedies repeatedly tried, by repeated failures stimulated new efforts to find at last what might be more effectual :—because every change has been made by the united force and united wisdom, the conflicts
and

“ On the death of Charles II. (says M. de
“ Lolme) began a reign, which affords a most ex-
“ emplary

and competitions, the mutual compromises, concessions and accommodations of all the powers, orders, and interests in the great political society of the nation. Nor is it among our least securities that there is scarcely one of our principal nobility, who does not think it his first and best pride, to trace back his origin to some illustrious ancestor, that fought and bled in the field, or on the scaffold, in defence of the constitution of his country. But these objects of our admiration and confidence, are now, it seems, to be our condemnation. I do not think, however, that M. la Croix has chosen very happily either his topics of preference, or his similitudes. If the French constitution was consolidated by the *unanimous* accord of the nation, why was it necessary to *annihilate two* out of *three* orders, lest they might oppose and defeat it? If there be this *unanimity*, why do we read of motion after motion, and penalty added to penalty, against *refractory priests*; or are daily accounts received in the National Assembly, of tumults and plots in the different districts? why are the prisons filled with persons accused of *leze nation*, more than were confined in the Bastille and other state prisons for two centuries? and why are the frontier towns of Germany crouded with French emigrants so formidable by their increasing numbers to the National Assembly themselves, as to be the objects of the strongest resolves and of menaces of offensive war? The constitution of France, like that of England, has been cemented with blood: not indeed like ours, with illustrious blood, gloriously shed, but with blood ferociously drawn in savage massacres and butcheries at home, and now in a civil war of a most horrid kind, raging throughout the principal colony of France; of all which the shocking apology has been, that *the blood, so shed, was none of the purest*. Whether these were *necessary* evils, is another question; but that they are evils, every man of humanity must allow; and that they did, and do exist, is publicly notorious, and M. de la Croix has himself in many passages testified.

“ emplary lesson both to king and people. James
 “ II. a prince of a more rigid disposition, though
 “ of a less comprehensive understanding than his
 “ late brother, pursued still more openly the pro-
 “ ject, which had proved so fatal to his family.”

“ James II. (says the Abbé de Mably) had both
 “ his heart and soul engrossed by despotism. He
 “ believed himself possessed of sufficient authority

What then becomes of the *unanimous* accord of the nation, in contra-distinction to the blood shed in our struggles for the constitution of England!

The perfection of the new French constitution is strongly asserted by Mr. de la Croix. But is it so clear (to wave all speculative arguments) that there are no omissions in important points; no proofs of positive vices in this all-perfect constitution? Did not the committee of revision, before it was finally decreed, make many most essential alterations in it, from what it was under the original detached decrees? Was this right, or was it wrong? If it was right, does this fact of such fundamental changes in some great parts after a trial of only two years, furnish no presumption in other points against the infallibility of these philosophical popes in politics? If it was wrong (and so a very large proportion of the present leaders thought) how can the existing constitution, so altered, be still perfect? Do we not know too, that since the sitting of the present assembly, the king and the assembly have differed in their opinions as to the true mode of signature and other acts of the prerogative under the constitution; and has not the first exercise of the royal veto occasioned great murmurs, menaces, and tumults?—Mr. de la Croix’s similitudes of the English and French constitutions may be sufficiently applicable, but are rather ill omens to his country: the oak is said to live *nine centuries*; the Colossus was overthrown by an earthquake, not much above half a century from its erection.

“ to

“ to dispense with the laws: he established imposts
“ without the knowledge of parliament: he spoke
“ in the style of an absolute sovereign in his procla-
“ mations: he openly professed a religion odious
“ to his subjects; and was desirous of destroying
“ theirs: he contracted suspicious alliances with
“ foreign powers: he kept an army on foot; and
“ threatened to oppress all who resisted him.

“ The English, who saw their liberty attacked
“ even in its first principles; recurred to the reme-
“ dy which nature and reason points out to the
“ people, when he, who ought to be the guardian
“ of their laws, becomes their destroyer: they with-
“ drew the obedience which they had vowed to
“ James, and believed themselves disengaged from
“ the oaths which they had interchanged with a
“ king, who deemed himself raised above the obli-
“ gation of adhering to his own.”

This revolution, very different from that which had preceded it, sullied not the national honour: it was a consequence of the progress of knowledge; and the principles by which the people were directed. The nation spoke but one opinion on this occasion: all the bonds, by which the English were attached to the throne, were broken: and James II. who, the moment before, was a monarch, surrounded with his subjects, was now only an individual in the midst of the nation.

It must however be acknowledged how greatly circumstances concurred to make this revolution peaceable. James abandoned voluntarily the island, where he could be neither a king nor a citizen : while William, his son-in-law, who felt no scruples about accepting his crown, supported himself on the throne of his father-in-law with all the forces of Holland.

Louis XIV. who employed his whole power for reinstating the unfortunate prince on his throne, was not seconded by the Irish, upon whose zeal he depended : neither could he affect the landing of twenty thousand men under the command of admiral Tourville. In fine, the cause of the people triumphed over that of the two kings.

“ This was (says M. de Voltaire) the true epo-
“ cha of English liberty. The nation, represent-
“ ed by its parliament, now fixed the long contest-
“ ed limits of the rights of the king, and those of
“ the people : and having prescribed to the Prince
“ of Orange the conditions upon which he was to
“ reign, they chose him for their king, conjointly
“ with his wife, the daughter of king James.
“ From that time the prince was known in the
“ greater part of Europe only by the appellation of
“ William III. lawful king of England, and deli-
“ verer of the nation : but in France he was still
“ regarded merely as Prince of Orange, usurper of
“ the dominions of his father-in-law.”

It is certain that the French nation was not then sufficiently enlightened nor sufficiently acquainted with the respective rights of the people and their chief, to comprehend that the pact, by which the inhabitants of a kingdom oblige themselves to obey a monarch, is but a *synallagmatic* contract, the conditions of which equally bind the two parties: that, if one of the parties derogates from the engagement, they both re-enter into their first privileges*. As a king has it always in his power to abdicate

* The doctrine of the original contract is here laid down with a very dangerous laxity, and in truth Mr. de la Croix appears from his subsequent admonition, to be himself acquainted with the danger of his own principles. He expresses himself as if, in all states at the head of which is a king, the political contract, or pact, were binding between *the king only and the majority of the multitude*: for in this loose, vulgar, and treacherous sense, he clearly uses the term of “*people*.”

Now this is a mistake. The political pact is between *him or them*, in whom is the government of the state, *whatever be the form of that government*, and each individual member of the state;—or, in more technical language, between *that moral person who governs*, whether consisting of one or more natural persons, and *all and each of the natural persons*, who altogether form *the political society to be governed*. It follows then, that where the government is of a *mixed form*, as a *limited monarchy*, each individual is bound, not only to the conservation of the monarchy, but also of the political privileges, which constitute the limitations of the monarch’s prerogatives; for the powers entrusted for the purposes of such limitations, are a part of the government under the constitution, or
fundamental

abdicate whenever he feels the sceptre become too heavy; or when ever his subjects render the executive

fundamental law of the state. No crime of the monarch can forfeit the rights of the aristocratical or democratical bodies, who are placed in the government as checks upon him. They can only forfeit their rights by their own crimes; not the crimes of individuals among them, but of their respective political bodies in their public capacities.

The government of England is, by the constitution, or fundamental law of the state, vested in king, lords, and commons. James II. by controverting this fundamental law—doing acts by his own usurped authority, which he could not legally do without the consent of parliament; by imprisoning spiritual lords, who came to advise according to their undoubted privilege; openly aiming at the subversion of the established church; violating the freedom of elections; and corrupting the administration of the law;—justly forfeited his crown. But did he by these acts forfeit the political rights of the lords spiritual and temporal? Was it ever pretended that the people *re-entered into their privileges*, in the sense in which Mr. de la Croix understands the word people, so as to do what pleased a majority of the multitude told by the head? The convention, that conferred the crown on William and Mary, did not affect to have any powers from such a majority of the multitude. Quite the reverse. They were declared by the succeeding legislature, to have lawfully, freely, and fully *represented*—WHAT?—“*the majority of the individuals composing the people;*”—or “*all the people of the realm,*” in the new sense?—No; but that there might be no ambiguity, it is constitutionally expressed—ALL THE *ESTATES of the people of this realm.*

It is not true, therefore, that in *mixed governments* (either according to theory, or the sound practice of our own revolution)

if

tive power too arduous, the nation ought also to have the right of chusing another the king, when he whom they had acknowledged as such, renders himself unworthy of that favour, and deceives their confidence.

While I establish this as a principle, I must not conceal one very important truth. Whenever a king abdicates, his will is evident: it is very clear that he is no longer disposed to reign; but when an insurrection arises in a state against the prince, there is not so great a certainty that it proceeds from the free and general will of the nation: it may be the effect of seduction; of some transient popular commotion; or be produced by groundless fears, or the ambition of some powerful enemy. The monarch therefore, who defends his crown cannot, for this reason, be always justly accused of wishing to establish himself on the

if the king derogates from his engagement, the people re-enter into their *first privileges*; that is, the privileges of so many individuals in a state of nature, or under the *first*, or simply *social* pact, by which all agree to submit to the will of the majority; for the second or political pact stands in the way, which was only in part with the king, and in part with other moral persons, or political bodies, who may not have broken their engagements.

The doctrine of the two pacts is familiar to those who are acquainted with the best writers on the law of nature and of nations. Rousseau has built every thing on the *first* or *mere social* pact, and, as I remember, unaccountably omitted all notice of the second or *political* pact. Hence seem to have sprung many of his errors, and the enormities of his practical disciples in France.

throne,

throne, in spite of the will of the nation: and his resistance may be legal, because he reigns not by the will of one city, or one province, but by the will of all the cities, of all the provinces of the empire.

It was declared under William III. that, to establish taxes without the consent of the people, or to maintain an army in time of peace, was contrary to law. The power hitherto always claimed by the crown of dispensing with the execution of the law was abolished. An act was passed, which acknowledged the right of all subjects, whoever they were to present petitions to the king. And, in fine, to use the words of M. de Lolme, “ they fixed the
“ keystone in the arch of freedom, by establishing
“ the liberty of the press.”

I know not why M. de Mably says, in his Observations on the History of France, that “ the English when intoxicated with the joy occasioned
“ by their revolution, ought rather to have trembled, on seeing it was not their work. Who can
“ assure them (says he) that under the same circumstances, they shall find a second William: that
“ their king as timid as James, will retire without
“ daring to try his fortune, and the fortune of his
“ kingdom in a single battle: or that, if he tries
“ it, he shall be vanquished?” This revolution was certainly the work of the English: and according to the author of *The Age of Louis XIV.*

“ the

“ the principal persons of England indignant at
“ the conduct of the king, united in secret against
“ his designs, and sent a deputation to the prince
“ of Orange. Their league was conducted with so
“ much prudence and secrecy as to lull the suspi-
“ cious of the court.

“ The Prince of Orange equipped a fleet capa-
“ ble of conducting forty or fifty thousand men*:
“ it was given out that this fleet was intended
“ against France, and the secret was kept by more
“ than two hundred persons.”

Supposing a circumstance, similar to that I have been speaking of, should happen in England, it would be of little consequence whether the king was or was not as timid as James. A king, however courageous, could not struggle alone against his people: he must have an army, and an army of sufficient strength, and sufficiently devoted to the monarch, for making head against the whole nation. Would soldiers levied in England, and paid by the people, risk the destruction of their

* This account, is very greatly exaggerated. The fleet of the Prince of Orange consisted of fifty-seven ships of war, five hundred fly-boats, sixty pinks, and ten fire-ships. The number of forces they actually did conduct, were fourteen regiments of horse and dragoons, making together three thousand six hundred and sixty men; and fifteen regiments of foot, containing ten thousand six hundred and sixty-two men: so that his whole force amounted to fourteen thousand three hundred and fifty-two men.

country,

country, for a prince who could only reward their zeal in proportion as he overturned all laws? Would officers, would commanders, who had titles and fortunes, expose themselves, by commanding mercenaries, to lose both their honour and their property, for having endeavoured to destroy a constitution, on the existence of which both must depend?

The fears, with which the Abbé de Mably seeks to inspire the English, are even more chimerical than those which some pusillanimous or designing men are endeavouring to spread through France, by menacing the nation with a counter revolution.

I have related rapidly, and with all the clearness I could, those events which preceded and led on to the present constitution of England. I shall now proceed to examine that constitution, and afterwards let it be judged whether it is superior to that of France. I will not attempt to conceal its imperfections.

The basis of the English constitution, the grand principle on which all authors fix their attention is, that to the parliament alone pertains the legislative power; that is to say, the power of establishing laws; and of abrogating, altering and explaining them.

The constituent parts of the parliament are, the house of commons, the house of lords, and the king.

Thus

Thus the king not only makes a part of the nation, but also a part of the parliament, and consequently part of the legislature*. His condition is therefore not properly described, when he is distinguished under the title of *the executive power*.

The house of commons, or assembly of the representatives of the nation, is composed of deputies from the different counties in England, each of which sends two: of the deputies of the cities, of which London, including Westminster and Southwark, nominates eight: the other cities and parliamentary boroughs send two or one: and the deputies of the universities of Oxford and Cambridge, which send two each.

Since the act of union, the Scotch send 45 deputies; who, joined with those I have been speaking of, form an assembly of 558 members.

According to M. de Lolme, “ these deputies, “ though chosen separately, are not considered as “ representing only the town or county which “ elected them, as is the case we are told with the

* The king is chief of the parliament, as he is of the nation. He is that part which gives motion to the other parts; and is therefore styled, in some of our ancient writers, *the beginning, the lead, and the end*. He may be compared to the grand wheel in a machine, which, while it is the first mover, the principle of action to the other wheels, can produce no effect independently of them. In a despotic government, the king constitutes the whole machine.

“ United

“ United Provinces ; but when once admitted into
 “ parliament, they represent the whole nation.”
 The French have not therefore the honour of invention, in transforming the deputies elected by one province into general representatives of all France ; and thus effacing that distinction which might have subjected each deputy to stipulate only for partial interests ; to regard only local demands ; and, by confining himself to the sense and letter of his instructions, establish a rivalry of opinions foreign to each other. It must be extreme ignorance that could refuse adopting an idea so natural, and a plan so truly wise and uniform.

“ In so large a state, as ours (says Blackstone) it
 “ is very wisely contrived, that the people should do
 “ that by their representatives, which it is impracticable to perform in person ; representatives
 “ chosen by a number of minute and separate districts, wherein all the voters are, or easily may
 “ be distinguished. The counties are therefore
 “ represented by knights, elected by the proprietors of lands : the cities and boroughs are represented by citizens and burgeses, chosen by the
 “ mercantile part or supposed trading interest of
 “ the nation.”

Notwithstanding these observations, many of the English find the representation unjustly divided. They say, that some counties, thinly inhabited, have as many representatives as those which are the

most populous: and that a decayed borough sends a deputy or two, while some opulent towns do not enjoy the same privilege. But this inequality is in fact of no consequence, since, as it has been just now remarked, these deputies represent neither particular counties or boroughs, but the nation altogether.

Though there may be some danger in depriving certain counties of the right of electing the same number of representatives with others which are more populous; or of taking the privilege from decayed boroughs, and conferring it on flourishing towns; yet the assembled parliament can, when it judges such a measure expedient, change, by a new statute the plan of elections; for nothing is above its authority.

The qualifications required in a member of the house of commons are, to be a subject of Great Britain; to have a landed property, producing a yearly income of six hundred pounds sterling, if the person represents a county: and of three hundred pounds a year, if he represents a city or a borough.

To be an elector in a county, the voter must possess a freehold of forty shillings a year, arising either from land or houses: he must have attained the age of twenty-one years, and have been in possession of his property one year, unless it has descended to him within that time by inheritance: and, in fine, he must prove his having paid the taxes.

Much has been written against the decree passed in France, by which proof is required of a man

having paid a contribution of a mark of silver to enable him to be elected, without the possession of any property whatever being deemed necessary: and the proof of having paid a contribution of ten livres to entitle a man to be an elector.

The English were desirous, in order to have both the elected and the elector above being corrupted by money, that the deputy should be sufficiently opulent to secure him from being seduced by the favours of the court; and that the voter should possess such a property as would render him independent of every person.

“ This freehold must be of forty shillings annual value (says Blackstone) because that sum would then, with proper industry, furnish all the necessaries of life, and render the freeholder, if he pleased, an independent man.”

Hence it appears, that so far from requiring less property, or less contribution, to entitle a man to be an elector, the English would, if they were now to make a statute on the occasion, require a larger portion of both *.

* This is not a just conclusion. The English may perhaps consider it as a circumstance advantageous to the cause of liberty, that by the great increase of national wealth, since the reign of Henry VI. when this statute was made, the number of electors has been proportionally increased: and they might not, if a new statute were to be made, judge it either equitable or politic to reduce the present number of voters, by requiring a larger qualification.

For

For being an elector of a borough, nothing more is required than proof of having enjoyed, for one year, all the rights of a burghers. Many citizens, though possessed of large property, cannot be members of the house of commons: of this number are the twelve judges, because they have seats in the house of lords.

Ecclesiastics are likewise excluded; because the clergy sit in the house of convocation, and are besides represented by the spiritual lords.

Neither sheriffs of counties, mayors, or bailiffs, can be elected in their respective jurisdictions, because it is they who preside at elections.

In this class of excluded persons are ranked all those who are employed in receiving the revenue in the excise or the land-tax departments. The commissioners of the treasury are alone exempted from this exclusion*.

No person enjoying † a pension from the king can be elected. And in fine, any member of the house of commons who accepts of an employment vacates his seat by doing so.

These details, which I have abridged, demonstrate what attention has been employed to keep the re-

* By the bill, commonly called Mr. Crew's bill, the principle has been carried down to disqualify, as electors, all revenue-officers. This was one of the measures of the Rockingham administration, to secure the freedom of elections: and, at the same time, to diminish the influence of the crown.

† That is, a pension *during pleasure*, a pension *for life* does not incapacitate.

representatives impartial and incorruptible: and yet the parliament of England are continually accused of partiality and corruption.

The upper house is composed of the lords spiritual and temporal.

The first are the two arch-bishops and twenty four bishops of the kingdom, who are considered as holding ancient baronies dependent on the king.

The temporal lords are all the peers of the kingdom by whatever title of nobility they may be distinguished. The old peers have seats in the house of lords, by right of birth; the new ones by creation; and, since the union with Scotland, others by election: these last are sixteen in number.

The number of the peers is not limited; and may be augmented at the king's pleasure.

According to the laws, no person can sit in either house until he is twenty-one years of age. Each member must take the oaths of fidelity, supremacy, and abjuration; and repeat the declaration against transubstantiation, the invocation of saints, and the sacrifice of the mass.

No stranger, however naturalized, can become a member of either houses of parliament.

Whoever has been elected a member of the house of commons by the people, or created a member of the house of lords by the king, can, notwithstanding such election, or creation, on complaint made against him, be declared incapable of sitting as a member in either the one or the other house. But
this

this sentence can only be pronounced by that house to which he belonged.

The inviolability of the persons and property of representatives is not explained very clearly by Blackstone. In speaking of privilege of speech, that writer says, “It is declared by the statute of 1 W. and M. ft. 2. c. 2. as one of the liberties of the people, *that the freedom of speech and debates, and proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament.* And this freedom of speech is particularly demanded of the king, in person, by the speaker of the house of commons, at the opening of every new parliament. So likewise are the other privileges, of person, servants, lands, and goods.”

“But (says Blackstone in another passage) all other privileges, which derogate from the common law, are now at an end, save only as to the freedom of the member’s person: which, in a peer (by the privilege of peerage) is ever sacred and inviolable; and in a commoner (by the privilege of parliament) for forty days after every prorogation, and forty days before the next appointed meeting; which is now in effect as long as the parliament subsists, it seldom being prorogued for more than fourscore days at a time*.”

The

* As the short passage, which intervenes between this and the next quotation speaks more clearly on this subject, I shall insert it.

The king, however, in virtue of his prerogative can prosecute a member who is indebted to him, even during a session of parliament: but: with this proviso, that his personal liberty be not injured.

“ Likewise (says Blackstone) for the benefit of
 “ commerce, it is provided, by statute 4 Geo. III.
 “ c. 33. that any trader, having privilege of par-
 “ liament, may be served with legal process for any
 “ just debt, (to the amount of £.100) and unless
 “ he makes satisfaction within two months, it shall
 “ be deemed an act of bankruptcy; and that com-
 “ missions of bankruptcy may be issued against
 “ such privileged traders, in like manner as
 “ against others.

“ The claim of privilege (says Blackstone, in
 “ another passage) hath been usually guarded with
 “ an exception, as to the case of indictable crimes;
 “ or, as it hath been frequently expressed, of trea-
 “ son, felony, and breach (or surety) of the

“ As to all other privileges (continues Blackstone) which ob-
 “ struct the ordinary course of justice, they were restrained by the
 “ statutes 12 W. III. c. 3. 2 and 3 Ann. c. 18. and 11 Geo. II.
 “ c. 24. and are now totally abolished by statute 10 Geo. III. c. 50.
 “ which enacts, that any suit may, at any time, be brought against
 “ any peer or member of parliament, their servants, or any other
 “ person entitled to privilege of parliament; which shall not be
 “ impeached or delayed by pretence of any such privilege; except
 “ that the person of a member of the house of commons shall not
 “ thereby be subjected to any arrest or imprisonment.” *Blackstone’s*
Com. b. i. p. 165.

“ peace.

“ peace. Whereby it seems to have been under-
“ stood that no privilege was allowable to the mem-
“ bers, their families, or servants, in any *crime*
“ whatsoever; for all crimes are treated by the law
“ as being *contra pacem domini regis*. And instances
“ have not been wanting, wherein privileged per-
“ sons have been convicted of misdemeanors, and
“ committed, or prosecuted to outlawry, even in
“ the midst of a session; which proceeding has af-
“ terwards received the sanction and approbation
“ of parliament. To which may be added, that a
“ few years ago (in the year 1763) the case of wri-
“ ting and publishing seditious libels was resolved
“ by both houses not to be entitled to privilege;
“ and that the reasons upon which that case pro-
“ ceeded, extended equally to every indictable of-
“ fence. So that the chief, if not the only, privi-
“ lege of parliament, in such cases, seems to be
“ the right of receiving immediate information of
“ the imprisonment, or detention of any member,
“ with the reason for which he is detained.”

It is astonishing that, in a country where no per-
son can do any thing but with the law * in his hand,
there has not been a statute made to declare ex-
pressly,

* Mr. de la Croix expresses himself like many foreigners, as if we had scarcely any other law than the written law. It is unnecessary to remind the English reader, how much of our law, our parliamentary law, cannon law, ecclesiastical, civil, and maritime law depend upon unwritten customs, usages, and established interpretations.

pressly, that after being accused, or rather convicted of a crime, the privilege of a member of parliament shall be suspended.

Happy is the nation which respects itself sufficiently, which is sufficiently cautious whom it elects, to prevent its representatives ever having occasion for their title to inviolability in either civil or criminal cases, and who all find a shelter from the laws in their own probity. But are those worthy of making a part of the legislative body, who violate the first law; that of fulfilling their engagements? Or does the man deserve to concur in the direction of public order, who sets out with disturbing society by his revenge, or his ambitious projects? He calls himself a legislator, and the law proscribes him. He calls himself a representative of the people, and he dishonours the people, whom he represents; and he talks of virtue and justice, while he is accused of crimes and infidelities! Such deputies, in whatever country they exist, must, without doubt, find it necessary to be inviolable: but it is still more necessary to the people, not to have such men for the interpreters of their will; and not to be disgraced by such representatives.

tations. And with regard to the privileges of parliament, Mr. Hatfield, the learned clerk of the house of commons, has published a quarto volume filled with cases of privilege, in that house, and containing the whole doctrine on the subject.

CHAP,

C H A P. XXIII.

*Continuation of the Constitution of England.*OF THE FORMATION OF ITS PARLIAMENT, OF
THE ROYAL PREROGATIVE, AND OF JURIES.

THE constituent parts of the English parliament are composed of the king, the ecclesiastical peers, the peers of England, together with the sixteen peers elected by the Scotch peers, as their representatives, and five hundred and fifty-eight members of the house of commons, who represent the counties, cities, and boroughs.

These three parts are all so essential to the sovereignty, that nothing which is proposed can become a law if any one of them oppose it ; nor until it has been considered in both the houses, each of which must judge for itself.

It is on this principle that the lords will not permit the commons to oppose the admission of a Scotch peer into the upper house : and that the commons, in their turn, will not suffer the lords to judge of the validity of an election of one of the members of the lower house.

The

“ The power and jurisdiction of parliament (says
 “ Blackstone) is, according to Sir Edward Coke,
 “ so transcendent and absolute, that it cannot be
 “ confined, either for causes or persons, within any
 “ bounds. And of this high court (he adds) it
 “ may be truly said, “ *si antiquitatem spectes, est*
 “ *vetustissima ; si dignitatem, est honoratissima ; si ju-*
 “ *risdictionem, est capacissima.* It hath sovereign and
 “ uncontrollable authority in making, confirming,
 “ enlarging, restraining, abrogating, repelling,
 “ reviving, and expounding of laws, concerning
 “ matters of all possible denominations, ecclesiastical,
 “ or temporal, civil, military, maritime, or
 “ criminal : this being the place where that absolute,
 “ despotic power, which must in all governments
 “ reside somewhere, is entrusted by the constitution
 “ of these kingdoms. All mischiefs and
 “ grievances, operations, and remedies, that transcend
 “ the ordinary course of the laws, are within
 “ the reach of this extraordinary tribunal. It can
 “ regulate or new model the succession to the
 “ crown ; as was done in the reign of Henry VIII.
 “ and of William III. It can alter the established
 “ religion of the land ; as was done in a variety of
 “ instances, in the reigns of Henry VIII. and his
 “ three children. It can change and create afresh
 “ even the constitution of the kingdom, and of
 “ parliaments themselves ; as was done by the act
 “ of

“ of union, and the several statutes for triennial
“ and septennial elections.”

“ It was (continues Blackstone) a known apo-
“ thegm of the great lord treasurer Burleigh, *that*
“ *England could never be ruined but by a parliament :*
“ and, as Sir Matthew Hale observes, this being
“ the highest and greatest court, over which none
“ other can have jurisdiction in the kingdom, if
“ by any means a misgovernment should fall upon
“ it, the subjects of this kingdom are left without
“ all manner of remedy.”

“ It must be owned (adds Blackstone) that Mr.
“ Locke *, and other theoretical writers, have held
“ *that there remains still inherent in the people, a su-*
“ *preme power to remove or alter the legislative, when*
“ *they find the legislative act contrary to the trust re-*
“ *posed in them : for, when such trust is abused, it is*
“ *thereby forfeited, and devolves to those who gave it.*”
This is the idea of a very noble mind ; but it is
merely theoretical.

Certainly, if a legislative body were to make a de-

* Both these opinions are right. Under the constitution there
is and can be no resource. The constitution makes, and can make
no provision for extreme cases arising on the subversion of the con-
stitution itself. The grave and over-ruling necessity that demands
the remedy in those cases, must direct the nature and limit the ex-
tent of the remedy ; the object of which ought to be, the *preserva-*
tion or *restoration* of the violated constitution, not the opportunity
of introducing new speculations.

cree so absurd, so contrary to nature, as to be opposed by the general opinion, the people could soon overturn this colossus of power which they had raised. But as we cannot suppose that three authorities would combine, and act in concert, for giving the force of law to an institution evidently absurd, there is reason to believe that there never will be such an opposition of opinion between the parliament and the people, as to excite an insurrection all at once, and make the passive power annihilate the legislative, and establish itself upon its ruins. Thus the reasoning of Locke is that of a great metaphysician, who takes his career through the field of imagination. I shall not follow his course, but attach myself entirely to reality, and begin by examining the laws and privileges of the house of peers.

The first I shall touch upon does not seem to merit much regard, only as it proves that the members of this house have been willing to shew themselves the rivals of the monarch, and to mark their independence.

“ One very ancient privilege (says Blackstone)
 “ is that declared by the charter of the forest, confirmed in parliament, 9. Hen. III. viz. that every lord, spiritual or temporal, summoned to parliament, and passing through the king’s forests, may, both in going and returning, kill one or two of the king’s deer, without warrant;

“ in view of the forester, if he be present, or on
“ blowing a horn, if he be absent: that he may not
“ seem to take the king’s venison by stealth.

A second privilege, less vain, and more useful is,
that “ they have a right (continues Blackstone) to
“ be attended, and constantly are, by the judges
“ of the court of king’s bench, and common
“ pleas, and such of the barons of the exchequer
“ as are of the degree of the coif, or have been
“ made sergeants at law; as likewise by the kings
“ learned counsel, being sergeants, and by the
“ masters of the court of chancery, for their advice
“ in point of law, and for the greater dignity of
“ their proceedings.”

“ Another privilege is, that every peer, by li-
“ cence obtained from the king, may make an-
“ other lord of parliament to vote for him in his
“ absence.” This privilege, which is denied to the
commons*, ought not to be granted to the peers;
because it unites two opinions in one person; and
because, as the king’s consent is necessary, it is to

* Proxies do not vote in a committee. There is consequently a stage in the passing of every bill, where it may be thrown out, if contrary to the opinions of the actual majority present. The proxy, I believe, is taken out once in every parliament, and lasts for seven years. The king’s leave is now so much a matter of common right, and not of favour, that a minister would, I suppose, be liable to impeachment, for advising the king to refuse his leave to any particular peer, on the motives suggested by Mr. la Croix.

be feared that he will only grant it when the suffrage, so communicated, is to confirm his will.

“ Each peer (says Blackstone) has also a right,
 “ by leave of the house, when a vote passes contrary
 “ to his sentiments, to enter his dissent on the
 “ journals of the house, with the reasons of such
 “ dissent, which is usually styled his protest.”

“ All bills likewise that may in their consequences any way affect the rights of the peerage,
 “ are by the custom of parliament to have their rise
 “ and beginning in the house of peers, and to suffer no changes or amendments in the house of
 “ commons.”

These are some of the privileges peculiar to the house of peers; but the house of commons has one much more important: it is, (to use the words of Blackstone) “ that all grants of subsidies or parliamentary aids do begin in their house, and are first
 “ bestowed by them; although their grants are not
 “ effectual to all intents and purposes, until they
 “ have the assent of the other two branches of the
 “ legislature. The general reason, given for this
 “ exclusive privilege of the house of commons, is,
 “ that the supplies are raised upon the body of the
 “ people, and therefore it is proper that they alone
 “ should have the right of taxing themselves.
 “ This reason would be unanswerable, if the commons taxed none but themselves: but it is notorious, that a very large share of property is in
 “ the

“ the possession of the house of lords; that this pro-
“ perty is equally taxable, and taxed, as the property
“ of the commons; and therefore, the commons not
“ being the *sole* persons taxed, this cannot be the rea-
“ son of their having the *sole* right of raising and mo-
“ delling the supply. The true reason, arising from
“ the spirit of our constitution, seems to be this. The
“ lords being a permanent hereditary body, creat-
“ ed at pleasure by the king, are supposed more
“ liable to be influenced by the crown, and when
“ once influenced, to continue so, than the com-
“ mons, who are a temporary, elective body, free-
“ ly elected by the people.”

“ So reasonably jealous (continues Blackstone)
“ are the commons of this valuable privilege, that
“ herein they will not suffer the other house to ex-
“ ert any power but that of rejecting; they will
“ not permit * the least alteration or amendment
“ to be made by the lords to the mode of taxing
“ the people by a money bill.”

Let us now penetrate the bosom of this senate,
so august from its power, and observe how it per-
forms its acts of sovereignty.

“ I must premise, (says Blackstone) that, for
“ dispatch of business, each house of parliament

. * In case of any alteration by the lords, the commons always throw out the bill when it is returned to them. But if the alterations be good, a new bill is immediately brought in, adopting the substance of those alterations.

“ has its speaker. The speaker of the house of
 “ lords, whose office it is to preside there, and ma-
 “ nage the formality of business, is the lord chan-
 “ cellor, or keeper of the king’s great seal, or any
 “ other, appointed by the king’s commission: and,
 “ if none be so appointed, the house of lords (it is
 “ said) may elect. The speaker of the house of
 “ commons is chosen by the house; but must be
 “ approved by the king. And herein the usage of
 “ the two houses differs, that the speaker of the
 “ house of commons cannot give his opinion, or
 “ argue any question in the house; but the
 “ speaker of the house of lords, if a lord of parlia-
 “ ment may*. In each house the act of the major-
 “ ity binds the whole; and this majority is declar-
 “ ed by votes, openly and publicly given.”

“ In public matters, the bill is brought in upon mo-
 “ tion made to the house, without any petition at all.”

† “ After the second reading it is committed,
 “ that is referred to a committee; which is either
 “ selected

* But he may in a committee, where there is another chairman appointed, the speaker being then a simple member; and he may in the house, when the votes are equal.

† By the omission of a whole paragraph in this place, the account of the mode of carrying a bill through parliament is left incomplete, I shall therefore subjoin it.

“ The persons directed to bring in the bill, present it in a com-
 “ petent time to the house, drawn out on paper, with a multitude
 “ of blanks or void spaces, where any thing occurs that is dubious,
 “ or

“ selected by the house in matters of small impor-
“ tance, or else upon a bill of consequence, the
“ house resolves itself into a committee of the whole
“ house. A committee of the whole house is com-
“ posed of every member; and, to form it, the
“ speaker quits the chair (another member being
“ appointed chairman) and may sit and debate
“ as a private member†.

“ When the house hath agreed or disagreed to
“ the amendments of the committee, and sometimes

“ or necessary to be settled by the parliament itself; (such, especi-
“ ally, as the precise date of times, the nature and quantity of
“ penalties, and of any sums of money to be raised) being indeed
“ only the skeleton of the bill. In the house of lords, if the bill
“ begins there, it is (when of a private nature) referred to two
“ of the judges, who examine and report the state of the facts al-
“ ledged, to see that all necessary parties consent, and to settle all
“ points of technical propriety. This is read a first time, and at
“ a convenient distance, a second time; and after each reading
“ the speaker opens to the house the substance of the bill, and puts
“ the question, whether it shall proceed any further. The in-
“ troduction of the bill may be originally opposed, as the bill it-
“ self may at either of the readings; and, if the opposition suc-
“ ceeds, the bill must be dropped for that session: as it must also,
“ if opposed with success in any of the subsequent stages.” *Black-*
stone's Com. b. i. page 182.

† The following is the concluding sentence of this paragraph, which, as it continues the detail of proceedings, I shall insert.

“ In these committees the bill is debated clause by clause,
“ amendments made, the blanks filled up, and sometimes the bill
“ entirely new modelled.” *Black. Com. b. i. p. 182.*

“ added new amendments of its own, the bill is
“ then ordered to be engrossed, or written in a
“ strong gross hand, on one or more long rolls (or
“ presses) of parchment sewed together. When
“ this is finished, it is read a third time, and
“ amendments are sometimes then made to it; and
“ if a new clause be added, it is done by tacking a
“ separate piece of parchment on the bill, which is
“ called a *rider*. The speaker then again opens the
“ contents; and holding it up in his hands, puts
“ the question whether the bill shall pass.

“ After this, one of the members is directed to
“ carry it to the lords, and desire their concurrence;
“ who, attended by several more, carries it to the
“ bar of the house of peers, and there delivers it
“ to their speaker, who comes down from his
“ woollack to receive it.

“ It there passes through the same forms as in
“ the other house (except engrossing, which is al-
“ ready done) and, if rejected, no more notice is
“ taken, but it passes *sub silentio*, to prevent unbe-
“ coming altercations. But if it is agreed to, the
“ lords send a message by two masters in chancery
“ (or sometimes two of the judges) that they have
“ agreed to the same: and the bill remains with
“ the lords, if they have made no amendment to
“ it. But if any amendments are made, such
“ amendments are sent down with the bill to re-
“ ceive the concurrence of the commons. If the
“ commons

“ commons disagree to the amendments, a conference usually follows between members deputed from each house; who for the most part settle and adjust the difference: but, if both houses remain inflexible, the bill is dropped.”

The bill thus approved by the two houses, after so much trouble and formality, is still but a project which can only be realized by the royal approbation. “ The royal assent (says Blackstone) may be given two ways. In person, when the king comes to the house of peers in his crown and royal robes, and sending for the commons to the bar, the titles of all the bills, which have passed both houses, are read, and the king’s answer is declared by the clerk of parliament in Norman French: if the king consents to a public bill, the clerk usually declares, “ *le roy le veut*, the king wills it so to be;” if to a private bill, “ *soit fait comme il est désiré*; be it as it is desired.” If the king refuses his assent, it is in the gentle language of, “ *le roy s’avisera*, the king will advise upon it.” When a bill of supply is passed, it is carried up, and presented to the king by the speaker of the house of commons, and the royal assent is thus expressed, “ *le roy remercie ses loyals subjects, accepte leur benevolence, et aussi le veut*, the king thanks his loyal subjects; accepts their benevolence, and wills it to be so.”

It must undoubtedly occasion surprise, that in the parliament of England the monarch should express his will in a language foreign to the nation. Blackstone speaks of this mode of giving the king's answer in *Norman French* as “a badge, it must be owned (now the only one remaining) of conquest; and which one could wish to see fall into total oblivion; unless it be reserved as a solemn memento, to remind us that our liberties are mortal, having been once destroyed by a foreign force.”

“The king (continues Blackstone) may give his assent by letters patent, under his great seal, signed with his hand, and notified in his absence to both houses, assembled together in the high house. And when the bill has received the royal assent in either of these ways, it is then, and not before, a statute or act of parliament.

“This statute or act is placed among the records of the kingdom; there needing no formal promulgation to give it the force of law, as was necessary by the civil law, with regard to the emperor's edicts: because every man in England is, in judgment of law, party to the making an act of parliament, being present thereat by his representatives. However, a copy thereof is usually printed at the king's press, for the information of the whole land.”

“An

“ An act of parliament thus made * cannot be
“ altered, amended, dispensed with, suspended,
“ or repealed, but in the same forms and by the
“ same authority of parliament.”

“ Parliaments may be adjourned, prorogued, or
“ dissolved (says Blackstone).

“ An adjournment is no more than a continuance
“ of the sessions from one day to another, as the
“ word itself signifies: this is done by the autho-
“ rity of each house separately every day; and
“ sometimes for a fortnight or a month together,
“ as at Christmas or Easter, or upon other particu-
“ lar occasions. But an adjournment of one house
“ is no adjournment of the other.”

The king signifies his pleasure, when he thinks proper, to one or both houses that they are to adjourn themselves, and they pay the more regard to it, because the essence of the king's authority lies in proroguing the parliament, which is in fact dissolving it for a time. The difference between an adjournment

* The part omitted of this sentence is important, as it shews the paramount supremacy of parliament: I shall therefore give the paragraph as it stands in Blackstone.

“ An act of parliament, thus made, is the exercise of the highest
“ authority that this kingdom acknowledges on earth. It hath
“ power to bind every subject on the land, and the dominions there-
“ unto belonging; nay, even the king himself, if particularly
“ named therein. And it cannot be altered, &c.” *Blackstone's*
Com. b. i. p. 185.

and a prorogation is, that the first only interrupts and delays the proceedings in any business already commenced; while a prorogation, which is * for near three months, puts an end to the session, and then the bills before the house cannot be carried over to another session; at least not without being taken anew into consideration, which seldom happens.

“ A prorogation (says Blackstone) is the continuation of the parliament from one session to another: as an adjournment is the continuation of the session from day to day. This is done by the royal authority, expressed either by the chancellor, in his majesty’s presence; or by a commission from the crown, or frequently by proclamation.”

† If at the time of an actual rebellion, or imminent danger of invasion, the parliament shall be separated by adjournment or prorogation, the king is empowered to call them together † by proclamation, with fourteen days notice of the time appointed for their assembling.

“ A dissolution (continues Blackstone) is the civil death of the parliament; and this may be effected three ways. 1. By the king’s will, expressed either in person or by representation,”

* A prorogation may be for any shorter time. Charles II. once prorogued the parliament for *two days*.

† He can always reassemble them by a proclamation with forty days notice.

“ 2. A

“ 2. A parliament may be dissolved by the de-
“ mise of the crown.”

“ Lastly, a parliament may be dissolved, or ex-
“ pire by length of time.” “ As our constitution
“ now stands (says Blackstone in a subsequent pass-
“ age) the parliament must expire, or die a natural
“ death, at the end of every seventh year; if not
“ sooner dissolved by the royal prerogative.”

It is necessary however to observe, with respect
to the second means of dissolution, that the decease
of the king does not dissolve the parliament sud-
denly: for “ it was enacted (says Blackstone) by
“ the statutes of 7. and 8. W. III. c. 15. and 6.
“ Ann. c. 7. that the parliament in being shall
“ continue for six months after the death of any
“ king or queen, unless sooner prorogued or dis-
“ solved by the successor: that, if the parliament
“ be, at the time of the king’s death, separated by
“ adjournment or prorogation, it shall, notwith-
“ standing, assemble immediately: and that if no
“ parliament is then in being, the members of the
“ last parliament shall assemble, and be again a par-
“ liament.”

These statutes were very wisely made, to prevent
that anarchy into which a state must necessarily fall,
on finding itself all at once without either a legisla-
tive or executive power.

The king having, in virtue of his prerogative,
dissolved the last parliament before the seven years
were expired, our modern politicians bewildered

themselves in conjectures of the cause. Some pretended that the minister designed to make war with Spain, and to take advantage of the undetermination of France with respect to the treaty of alliance which bound her to the Spanish interest: and that as he was not sufficiently assured of the disposition of parliament to grant him the necessary subsidies, he was willing to create a new one. Others again did the minister the honour of supposing that, in order to convince the other powers of his peaceable intentions, he thus deprived himself at once of the only means of procuring the nerves of war.

All these opinions were chimerical. The English parliament is seldom suffered to live out its term of seven years. The king almost always employs his right of dissolving it; that the disuse of a privilege, which is one of the attributes of his power, may not be made a precedent.

The parliament being become the principal instrument of the king of England, he has no sooner destroyed than he hastens to restore it to life: the forms observed on that occasion are these: “ As
“ soon as the parliament is summoned, (says
“ Blackstone) the lord chancellor sends his war-
“ rant to the clerk of the crown in chancery, who
“ thereupon issues out writs to the sheriff of every
“ county for the election of all the members to
“ serve for that county, and every city and borough
“ therein. Within three days after the receipt of
“ this

“ this writ, the sheriff is to send his precept, under
“ his seal, to the proper returning officers of the
“ cities and boroughs in the county, commanding
“ them to elect their members : and the said re-
“ turning officers are to proceed to election within
“ eight days from the receipt of the precept, giving
“ four days notice of the same ; and to return the
“ persons chosen, together with the precept to the
“ sheriff.

“ But elections of knights of the shire must be
“ proceeded to by the sheriffs themselves in per-
“ son, at the next county court day that shall hap-
“ pen after the delivery of the writ. If the coun-
“ ty court falls upon the day of delivering the
“ writ, or within six days after, the sheriff may ad-
“ journ the court and election to some other con-
“ venient time, not longer than sixteen days, nor
“ shorter than ten ; but he cannot alter the place
“ without the consent of all the candidates : and
“ in all such cases, ten days public notice must be
“ given of the time and place of election.”

“ All soldiers quartered in the place (where an
“ election is to be held) are to remove, at least
“ one day before the election, to the distance of
“ two miles or more ; and not to return till one
“ day after the poll is ended.”

“ If any officer of the excise, customs, stamps,
“ or certain other of the revenue, presumes to in-
“ termeddle in elections, by persuading any voter,

“ or

“ or dissuading him, he forfeits £.100, and is disabled to hold any office.”

“ If any money, gift, office, employment, or reward be given to any voter, at any time, in order to influence him to give or withhold his vote, as well he that takes as he that offers such bribe forfeits £.500, and is forever disabled from voting and holding any office in any corporation; unless, before conviction, he will discover some other offender of the same kind, and then he is indemnified for his own offence,”

All these regulations, which have the force of law, cannot prevent seduction or stop cabals, which are abuses inherent to popular elections. There must be in a nation a great fund of virtue, and a truly public spirit, to make each elector remain unshaken in the midst of solicitations: and to direct him to search among the inhabitants of his borough, or his county, to find out the men truly capable of serving the public, and likely to carry into the assemblies or tribunals none but good views and wise ideas; and who, to these excellent qualities, should unite the art of leading back to a just way of thinking, those who run wildly into party extremes, or suffer themselves to be hurried away by their passions.

The people are of themselves too frequently in a state of habitual sluggishness with respect to all the great interests of their country, to think of discovering

vering that modest merit, which patiently waits until it is called forth to those appointments which it is formed to fill in a distinguished manner. It cannot therefore be denied that, in England, as well as every where else, intrigue, riches, and the desire of being conspicuous must always have considerable influence in elections. Good laws will not destroy corruption, they only render it more circumspect and adroit.

In London women of rank, as well as the modern Aspasia's, have been seen humbling themselves before mechanics; dispersing their gold to seduce electors; and collecting votes for the candidate whom they patronized and honoured with their friendship,

Where is the law that can deprive women of their seducing power? They who have so frequently subdued the austerity of the most rigid magistrates: who by a single glance have so often turned the ballance of justice, how can they be prevented from triumphing over the furliness of a citizen, or the simplicity of a country clown? Women governed Athens; Sparta; Rome itself. They give representatives to the English house of commons; and they will name deputies to the national assembly of France. In a word, while women are supposed to be excluded from any share in the government of states, it is they who govern them every where.

It may be concluded that the king, after having dissolved the parliament, would be able to raise himself to the sovereignty; and that by not convoking a new one, he would remain without contradiction, and his ministers without censurs. This might be effected, if the imposts were perpetual; and if the army had a permanent establishment. But the constitution of England, foreseeing that the monarch would endeavour to free himself from the curb in which the parliament holds him, has wisely directed things in such a manner, that he cannot do without it.

Led away by false ideas of the attributes of regal power, the French for a long time regarded the king of England as the illustrious slave of his nation. Into what an error had they fallen! He has all the power which a wise monarch can covet: the power of doing much good, and the happy impossibility of doing evil for any considerable time. If injustice is forbidden him, should he complain of that? If he is denied the power of oppressing his subjects, is that a cause to make him sigh?

I will now resume the subject of his prerogatives, and observe his existence as a king. We shall soon discover whether he deserves that concern mixed with pity, which some of our slavish courtiers appeared to feel for him.

The first prerogative of the king (says M. de
“ Lolme)

“ Lolme) in his capacity of supreme magistrate,
“ has for its object the administration of justice. ”

“ He is the source of all judicial power in the
“ state; he is the chief of all the tribunals, and
“ the judges are only his substitutes; every thing
“ is transacted in his name; the judgments must
“ be with his seal, and are executed by his officers.

“ By a fiction of the law he is looked upon as the
“ universal proprietor of the kingdom; he is, in
“ consequence, deemed directly concerned in all
“ offences: hence prosecutions are to be carried
“ on in his name in the courts of law.

“ He can pardon offences, that is, remit the
“ punishment that has been awarded in conse-
“ quence of his prosecution.

“ The second prerogative of the king, is to be
“ the *fountain of honour*, that is, the distributor of
“ titles and dignities: he creates the Peers of the
“ realm, and disposes of the different offices, ei-
“ ther in the courts of law or elsewhere.

“ The king is the superintendant of commerce;
“ he has the prerogative of regulating weights and
“ measures; he alone can give currency to foreign
“ coin.

“ He is the supreme head of the church. In this
“ capacity, he appoints the bishops and the two
“ arch-bishops; and he alone can convene the as-
“ sembly of the clergy. This assembly, is formed,
“ in England, on the model of the parliament:
“ the

“ the bishops from the upper house; deputies from
 “ the dioceses, and from the several chapters, form
 “ the lower house: the assent, of the king is
 “ likewise necessary to the validity of their acts,
 “ or canons; and the king can prorogue, or dis-
 “ solve, the convocation.

“ He is in right of his crown, the Generalissimo
 “ of all sea or land forces whatever; he alone can
 “ levy troops, equip fleets, build fortresses, and
 “ fill all the posts in them.

“ He is with regard to foreign nations the re-
 “ presentative, and the depository, of all the
 “ power and collective majesty of the nation: he
 “ sends and receives ambassadors; he contracts al-
 “ liances; and has the prerogative of declaring
 “ war, and of making peace on whatever condi-
 “ tions he thinks proper.

“ In fine, what seems to carry so many powers
 “ to the height is its being a fundamental maxim,
 “ that THE KING CAN DO NO WRONG: which does
 “ not signify, however, that the king has not the
 “ power of doing ill, or as it was pretended by
 “ certain persons in more ancient times, that every
 “ thing he did was lawful; but that he is above
 “ the reach of all courts of law whatever, and
 “ that his person is sacred and inviolable.”

The civil list insures him a revenue of above one
 million sterling, exclusive of what he draws from
 his hereditary electorate, and some rights which
 are

are attached to the crown, which make in all an income of above thirty millions of livres for his domestic expences.

Such is the situation of a monarch whom the French have so long commiserated as an unfortunate prince! These pretended politicians seemed to think that the state of one of their inferior princes was more august and more desirable. If they attach so much importance to external marks of servitude, they ought not to have forgot, that the king of England is served by his officers on the knee: that the first noblemen think themselves honoured by holding offices in his household: that when he goes to the house of peers, he is placed under a canopy: that the twelve judges of the realm remain standing until he permits them to sit down: that the officers of the crown form his suit, and add to the pomp of the royal presence: that when he sends for the house of commons, to attend him in the house of peers, they place themselves at a respectful distance; and give the idea of people submissively attending to receive the will of a monarch, who could dissolve them by a single word.

If we compare this picture of majesty with that of a king whose authority appeared unbounded; whose generosity seemed to have no limits; who could raise to the height of honours and dignities those subjects to whom he extended his favour; but who is at this day deprived of the privilege of
nominating

nominating one single officer among those who render justice in his name; of bestowing one single bishoprick; of dignifying one family with the title of a peer, of a duke; and who can neither declare war nor make a treaty of alliance, we must perceive that the king of England would not probably change conditions with the heir of Louis XIV.

I shall now enter more deeply into the English constitution, and shew with what admirable art it prevents those abuses which the monarch might otherwise make of his authority.

* On a king's accession to the throne, and before any bill is passed, the parliament examines all the usurpations which have been made by his predecessor on the sovereignty of the nation: and they demand the reformation of every thing which is contrary to public liberty.

“ The king (says M. de Lolme) is head of the church, but he can neither alter the established

• As the passage in M. de Lolme, from which this is evidently extracted, gives a more exact account, I shall subjoin it.

“ At the end of each reign, the civil list, and consequently that kind of independence which it procured, are at an end. The successor finds a throne, a sceptre, and a crown; but he does not find power, nor dignity; and before a real possession of all these is given him, the parliament have it in their power to take a thorough review of the state, as well as correct the several abuses that may have crept in during the preceding reign; and thus the constitution may be brought back to its first principles. *De Lolme on the Constitution of England*, p. 81.

“ religion,

“ religion, nor call individuals to an account for
“ their religious opinions. He cannot even pro-
“ fess the religion which the legislature has parti-
“ cularly forbidden.

“ The king is the first magistrate; but he can
“ make no change in the maxims and forms con-
“ secrated by law or custom.

“ The king has the privilege of coining money;
“ but he cannot alter the standard.

“ The king has the power of pardoning offenders
“ but he cannot exempt them from making a com-
“ pensation to the parties injured. It is even esta-
“ blished by law, that, in a case of murder, the wi-
“ dow, or next heir, shall have a right to prosecute
“ the murderer; and the king’s pardon, whether it
“ preceded the sentence passed in consequence of
“ such prosecution, or whether it be granted after
“ it, cannot have any effect.

“ The king has the military power; but the
“ king cannot raise them (the military forces)
“ without the consent of parliament. This army
“ is only established for one year: at the end of
“ that term, it is, unless re-established, to be *ipso*
“ *facto* disbanded.”

“ Besides, the funds for the payment of this bo-
“ dy of troops, are to be raised by taxes that never
“ are established for more than one year: and it
“ becomes likewise necessary, at the end of this
“ term, again to establish them.”

“ If the public money has been employed in a
 “ manner contrary to the declared intention of
 “ those who granted it, an impeachment may be
 “ brought against those who had the management
 “ of it. If any abuse of power is committed, or
 “ in general any thing done contrary to the pub-
 “ lic weal, they prosecute those who have been the
 “ instruments, or the advisers, of the measure*.”

“ It is before the house of peers (continues M.
 “ de Lolme) that the law has directed the com-
 “ mons to carry their accusation; that is before
 “ the judges whose dignity, on the one hand ren-
 “ ders them independent, and who, on the other,
 “ have a great honour to support in that awful
 “ function where they have all the nation for spec-
 “ tators of their conduct.”

If the constitution gives a great latitude to the authority of the king, it incloses him with a circle of forms which hinders the abuse he might otherwise make of that authority: they keep him entirely alone, as it were, in the midst of all his power, by rendering his agents responsible for their obedience to the intentions of the monarch.

* “ It was on these principles (says M. de Lolme, in a note on
 “ the above passage, which note M. de la Croix has by some mis-
 “ take misplaced in the text, at the end of the next paragraph)
 “ that the commons, in the beginning of this century, impeached
 “ the Earl of Oxford, who had advised the Treaty of Partition,
 “ and the Lord Chancellor Somers, who had affixed the great seal
 “ to it.” See *de Lolme on the English Constitution*, page 94.

Who,

Who, knows whether Mr. Pitt, the minister who is now so busy in the administration, and endeavours to throw Europe into a state of commotion, is not himself terrified at the idea of being one day obliged to fly from England, if the million sterling, which he has received from the treasury*, and of which he has hitherto concealed the application, shall not be found to have been applied usefully for the nation?

“ When the impeachment is brought to the lords,
“ they (says M. de Lolme) commonly order the
“ person accused to be imprisoned. On the day
“ appointed, the deputies of the house of commons,
“ with the person impeached, make their appear-
“ ance: the impeachment is read in his presence;
“ counsel are allowed him, as well as time, to pre-
“ pare for his defence; and at the expiration of
“ this term the trial goes on from day to day, with
“ open doors, and every thing is communicated
“ in print to the public.

“ But whatever advantage the law grants, to the
“ person impeached for his justification, it is from

* Readers of all parties must smile at this proof of the inaccuracy with which even well-informed foreigners understand our existing politics. This is a perfectly new statement of the fact at issue between the opposite sides of the two houses, Mr. Pitt, Mr. Fox, and Mr. Sheridan in the House of Commons, and Lord Grenville and Lord Rawdon in the House of Lords, on the subject of our finances and the million surplus.

“ the intrinsic merits of his conduct that he must
 “ draw his arguments and proofs. It would be of
 “ no service to him, in order to justify a criminal
 “ conduct, to alledge the commands of the sove-
 “ reign; or, pleading guilty with respect to the
 “ measures imputed to him, to produce the royal
 “ pardon. It is against the administration itself
 “ that the impeachment is carried on; it should
 “ therefore by no means interfere. The king can
 “ neither stop nor suspend its course*, but, is
 “ forced to behold, as an inactive spectator the dis-
 “ covery of the share which he may himself have
 “ had in the illegal proceedings of his servants,
 “ and to hear his own sentence in the condemna-
 “ tion of his ministers.”

It results from this constitutional point, that the
 peerage being hereditary is so far from being a
 vice in the constitution that it is one of its most
 essential pillars: because it raises the judges above
 the resentment of the king; since he cannot de-
 prive either them or their descendants of their dig-
 nity.

* Unless by a prorogation or dissolution. It was much and
 warmly agitated last year, whether the dissolution of a parliament,
 pending an impeachment, did or did not discontinue all proceedings.
 After great debates in the House of Commons, and a long, full, and
 accurate search after precedents in the House of Lords, the doctrine
 was settled probably forever, in a manner agreeable to reason, the
 constitution, and the law and usage of parliament;—that impeach-
 ments do not abate on a dissolution.

If

If the peerage were not hereditary, if peers were only nominated by the king, the house of lords would soon be entirely filled with such members as were devoted to the interest of the chief of the nation : the popular power, and the royal authority would no longer have a counterpoise ; and the constitution would then present only two rival powers, the democracy in the house of commons, and the royal authority in the upper house. Were this the case, the government would be sometimes wholly democratical, and sometimes a tyranny * : the greatest art has therefore been shewn, in placing between these two powers, an aristocratical authority, which cannot encroach on the rights of either one or the other ; and which, in order to maintain itself, restrains both within their respective limits.

The house of lords is precious to the nation, because it affords a rampart for the protection of liberty. Individual members of this house may be seduced by honours or lucrative employments ; but these honours and employments cannot be distributed to all ; there must consequently always be a great number who remain attached to the constitution, and to whom a more certain door to the offices of administration is opened by their zeal and affection for their country.

* Where then (it may be asked) is the perfection of the French constitution, in being, what they justly call it, a *Royal Democracy*, without the intervention of any thing like an aristocracy.

ject: but we must * remember it is a judge who is speaking. “ To vindicate these rights, when
“ actually violated or attacked, the subjects of
“ England are entitled, in the first place, to the
“ regular administration, and free course of justice
“ in the courts of law ; next, to the right of pe-
“ titioning the king and parliament for redress of
“ grievances; and lastly, to the right of having
“ and using arms for self preservation and de-
“ fence.”

“ When a person is charged with a crime (says
“ M. de Lolme) the magistrate, who is called in
“ England a *justice of the peace*, issues a warrant to
“ apprehend him : but this warrant can be no
“ more than an order for bringing the party be-
“ fore him; he must then hear him, and take down
“ in writing his answers, together with the different
“ informations. If it appears on this examination,
“ either that the crime laid to the charge of the
“ person, who is brought before the justice, was
“ not committed, or that there is no just ground
“ to suspect him of it, he must be set absolutely at
“ liberty: if the contrary results from the exami-
“ nation, the party accused must give bail for his
“ appearance, to answer to the charge; unless in
“ capital cases; for then he must, for safer custody,
“ be really committed to prison, in order to take
“ his trial at the next sessions.”

* He was not a judge when he wrote this.

* These sessions are held once every three months in the counties ; and once every six weeks in London. At each session the sheriff, a magistrate who has succeeded to the ancient earl as the guardian of the king's peace, in fine the executive officer of the superior courts of justice, names what is called the grand assembly of jurors, or the grand jury. “ This assembly (says Mr. de Lolme) “ must be composed of more than twelve men, and “ less than twenty-four ; and is always formed out “ of the most considerable persons in the county. “ Its function is to examine the evidence that has “ been given in support of every charge †: if “ twelve of these persons do not concur in the opi- “ nion that an accusation is well grounded, the “ party is immediately discharged ; if, on the con- “ trary, the jury find the proofs sufficient, the pri- “ soner is said to be indicted, and is detained in “ order to go through the remaining proceedings.

“ On the day appointed for his trial, the prisoner “ is brought to the bar of the court, where the “ judge, after causing the bill of indictment to be “ read in his presence, must ask him how he will “ be tried : to which the prisoner answers, *by God “ and my country* ; by which he is understood to

* M. de la Croix has here palpably confounded our quarter sessions, and our assizes. Perhaps the term of *Sessions at the Old Bailey* misled him.

† But without receiving any defence on the part of the prisoner.

“ claim

“ claim to be tried by a jury, and to have all the
“ judicial means of defence to which the law enti-
“ tles him. The sheriff then appoints what is call-
“ ed the petty jury : this must be composed of
“ twelve men chosen out of the county where the
“ crime was committed, and each possessed of a
“ landed income of ten pounds by the year : their
“ declaration finally decides on the truth or false-
“ hood of the accusation.”

Before this declaration is regularly given, the law, willing to purify itself from the influence of any passion, gives to the accused party a right of objecting against what is called the pannel, which is the first assembly from whence the twelve petty jurors are drawn : this objection takes place when the sheriff is supposed to be interested, or connected with the promoter of the prosecution.

This objection may be made, first on account of difference of condition : that is, a plebeian may object to a lord, &c. secondly, on account of an ill character, if the juror has been condemned by justice. Thirdly, on account of the person being an alien, or not possessing a sufficient property. And fourthly, if the juror is supposed to be connected with the accuser.

The law being willing to satisfy even the imagination of the unfortunate culprit, who is under its sword, grants to him a power of objecting to twenty jurors, without assigning any reason : this is
the

the cause why the pannel, which is as it were, the rough draught of the petty jury, is composed of forty-eight members.

It was impossible to carry forecast, and respect for the life and honour of the accused person further than they have been carried in this instance.

“ When at length the jury is formed, (says M.
“ de Lolme), and they have taken their oath, the
“ indictment is opened, and the prosecutor pro-
“ duces the proofs of his accusation. But, unlike
“ to the rules of the civil law, the witnesses deli-
“ ver their evidence in the presence of the prisoner:
“ the latter may put questions to them; he may al-
“ so produce witnesses in his behalf, and have
“ them examined upon oath. Lastly, he is allow-
“ ed to have counsel to assist him, not only in the
“ discussion of any point of law which may be
“ complicated with the fact, but also in the inves-
“ tigation of the fact itself, and who points out to
“ him the questions he ought to ask, or even asks
“ them for him.”

“ When, either in cases of high treason, or of infe-
“ rior crimes, the prosecutor and the prisoner have
“ closed their evidence, and the witnesses have an-
“ swered to the respective questions both of the
“ bench, and of the jurors, one of the judges makes
“ a speech, in which he sums up the facts which have
“ been advanced on both sides. He points out to
“ the jury what more precisely constitutes the hinge
“ of

“ of the question before them, and he gives them
“ his opinion, both with regard to the evidences
“ which have been given, and to the point of law
“ which is to guide them in their decision. This
“ done, the jurors withdraw into an adjoining
“ room, where they must remain without eating
“ and drinking, and without fire, till they have
“ agreed unanimously among themselves, unless the
“ court give a permission to the contrary. Their
“ declaration or verdict (*verdictum*) must, (unless
“ they chuse to give a special verdict) pronounce
“ expressly, either that the prisoner is guilty, or
“ that he is not guilty, of the fact laid to his charge.
“ Lastly, the fundamental maxim of this mode of
“ proceeding is, that the jury must be unanimous.”

“ If the verdict pronounces *not guilty*, the pri-
“ soner is set at liberty, and cannot, on any pre-
“ tence, be tried again for the same offence. If
“ the verdict declares him guilty, then, and not till
“ then, the judge enters upon his function as judge,
“ and pronounces the punishment which the law
“ appoints. But even in this case, he is not to judge
“ according to his own discretion only; he must
“ strictly adhere to the letter of the law; no con-
“ structive extension can be admitted: and how-
“ ever criminal a fact might in itself be, it would
“ pass unpunished, if it were found not to be posi-
“ tively comprehended in some one of the cases
“ provided for by the law.”

In

In fine, the judge can neither change the place or the form of the execution of judgment : and the sheriff who was to cause a man under sentence of death to be deprived of life in any other manner than that prescribed by the law, would be guilty of murder, and prosecuted as a murderer *.

If we compare these wise forms, circumspect and humane in every instance, to those which were adopted in the French criminal jurisprudence, and in which they so long persisted, in spite of the censure of so many philosophical writers, in spite of the cries of innocence which has made itself heard in the midst of sufferings, and which has been recognized, when its judges could only mix their useless tears with its blood, how humiliating must it be to the French, to have remained so long deaf to the voice of reason, and insensible to such an example of justice !

After so shameful a perseverance in barbarous customs, there is all possible reason to think, that their magistrates, that their legislators, would never

* M. de la Croix has not noticed one circumstance very advantageous to persons on trial.—Witnesses may be compelled by subpoena to appear for, as well as against them : and in case of non-appearance after being so summoned, the penalty was 100 pounds forfeited to the king : to which a statute of the 5 Elizabeth has added an additional fine of 10 pounds to be paid to the party aggrieved, and also damages equivalent to the loss sustained by the want of his evidence.

have

have adopted the form of juries in criminal causes : and that they would always have rejected the public hearing of causes, the communication of the proceedings, and the aid of counsel to persons accused. Who can have indeed more right to be convinced of this truth than I; since I saw so much hatred accumulated on my head from the tribunals, because I had sought to introduce some salutary reforms into the legislation of France ; to excite the feelings of the monarch by the horrible image of her dungeons and frightful prisons; and to obtain the aid of counsel for persons accused *.

This is therefore another of the benefits of the French constitution : of that constitution which increases and extends itself amidst the benedictions of some, and the execrations of others : and which would be cherished by all, if men could at once detach themselves from all those vain ideas on which they have placed its good fortune, and its superiority !

But I will respect the wounds which are still bleeding. I will not insult fallen pride, by prejudging those that are down. Truth is not less beautiful for appearing in the garb of nature : and courage, equity, patriotism, and public virtue will ever

* What I have said on this subject, says M. de la Croix in a note, may be seen in *le Répertoire de Jurisprudence* and in the *New Encyclopédie*, under the words *prisons*, *publicité de l'audience*, *questions*, &c.

have the same characterising manners : they owe all their graces, all their success to themselves : they draw honours around them, not from their ancestors, not from the blazoners of arms, but from their own deeds. Those who to the glory of a progenitor's name, add the glory of their own actions, will always have ancient nobility to boast : while those whose only merit consists in a noble descent, are like burnt out fires which throw forth no more light ; but for whose extinction we are consoled by seeing others kindle around to shine with greater brightness. From the ashes of such as were truly noble will spring up a new race of nobility, while the rest will remain buried in oblivion. Let the descendant of a Turenne gather laurels for his own brow, and every eye will behold those of his ancestor intermixed and waving in the wreath.

In this moment of the regeneration of France, all the branches of that venerable tree, her ancient honour, will renew their blossoms and receive fresh sap : had they been suffered to remain as they were, the trunk would have been soon exhausted ; while its useless foliage, throwing a fatal shade over the infant fruit, would have checked and prevented its growing to perfection.

Let those therefore, who bear within them the germs of virtue and talents, by which they may acquire true nobility, console themselves for not being allowed to transmit their honours to their posterity,

posterity, by the reflection, that they may communicate, by their example, the means of acquiring the same distinctions.

Those only will deem the loss of titles irreparable, who have no means of rendering themselves illustrious but their gold : they will have the misfortune of being no more respected except among the wealthy. But whatever may be the fate of those unfortunate beings, it is not for them that the tear of enlightened sensibility will flow.

C H A P. XXIV.

*Continuation of the Constitution of England.*OF THE CIVIL LAWS, THE PENAL CODE, AND
THE LIBERTY OF THE PRESS.

AFTER having observed in the constitution of England the three essential parts of the sovereignty, we have examined in what the liberty of the individual consists, and we have seen that the citizen can dispose of his fortune, his industry, and his person : and that he cannot be arrested but under the authority of the law.

I believe I have fully explained the progress of criminal processes, and described the forms observed in them ; I have not however exhausted the subject : the famous law, known under the title of the *Habeus Corpus act*, still remains to be considered. This act, which is regarded in England as a second *Magna Charta*, because it leaves not, either to the king or to any individual, the means of attacking unjustly, and with impunity, the liberty of the citizen, was granted to the English in the reign of Charles II. It derives its common appellation from the first words of the writ enforced by this act,
which

which are, *habeas corpus ad subjiciendum*; but the proper title is, *An act for the better securing the liberty of the subject, and for the prevention of imprisonments beyond the seas.*

“ The principal articles of this act (says M. de Lolme) direct the different periods of time allowed for making a return to the writ, or bringing a prisoner: those periods are proportioned to the distance of the place of commitment; and the return cannot in any case exceed twenty days.

“ That any officer, keeper, or under-keeper, neglecting to make a due return, or to produce the prisoner at the time appointed, or not delivering to the prisoner, or his agent, within six hours after demand, a copy of the warrant of commitment, or shifting the custody of the prisoner from one to another, without sufficient reason or authority (specified in the act) shall for the first offence forfeit one hundred pounds; and for the second, two hundred, to the party grieved; and is made incapable to hold or execute his office.

“ No person, once delivered by *habeas corpus*, shall be recommitted for the same offence, on penalty of five hundred pounds.

“ Every person committed for treason or felony shall, if he require it in the first week of the next term, or the first day of the next sessions of oyer

“ *and terminer*, or general goal-delivery, be indicted
 “ in that term, sessions, or goal-delivery, or else
 “ admitted to bail; unless the king’s witnesses
 “ cannot be produced at that time: and if ac-
 “ quitted, or if not indicted and tried in the second
 “ term or session, he shall be discharged of his im-
 “ prisonment for such imputed offence.

“ Any of the twelve judges, or the Lord Chan-
 “ cellor, who shall deny a writ of *babeas corpus*, on
 “ sight of the warrant of commitment, or on oath
 “ that the same is refused, shall forfeit severally to
 “ the party grieved five hundred pounds.

“ No inhabitant of England (except persons
 “ contracting, or convicts praying to be transport-
 “ ed) shall be sent prisoner to Scotland, Ireland,
 “ Jersey, Guernsey, or any place beyond the seas,
 “ within or without the king’s dominions; on pain
 “ that the party committing, his advisers, aiders,
 “ and assistants, shall forfeit to the party grieved
 “ a sum not less than five hundred pounds; to be
 “ recovered with treble costs; shall be made in-
 “ capable to bear any office of trust or profit; shall
 “ incur the penalties of *premunire* (the being put
 “ out of the king’s protection, the forfeiture of all
 “ lands, tenements, goods, and chattles, and im-
 “ prisonment at the king’s pleasure) and shall be
 “ incapable of receiving the king’s pardon.”

Such is the spirit of this law, so important to
 England,

England, and which France has so long envied her rival.

“ We must admire (says * Ferguson) as the key-
“ stone of civil liberty, the statute which forces
“ the secrets of every prison to be revealed, the
“ cause of every commitment to be declared, and
“ the person of the accused to be produced, that
“ he may claim his enlargement, or his trial within
“ a limited time. No wiser form was ever oppo-
“ sed to the abuses of power. But it requires a
“ fabric no less than the whole political constitution
“ of Great Britain, a spirit no less than the refrac-
“ tory and turbulent zeal of this fortunate people,
“ to secure its effects.”

There is in England one exception to the judicial modes of proceeding of which I have been speaking : it is in cases of accusation for high treason. If a man, presumed guilty of what is called *a bigb crime*, has found means of suppressing the evidence against him, in such a manner that it is impossible to condemn him by law, there is brought against him what is called † *a bill of attainder*; that
is,

* *Ferguson on Civil Society*, Part III. Sect. 6, at the end.

† Bills of attainder are not brought only on the ground stated by the author. That was indeed the ground of the bill of attainder brought against Sir John Fenwick, from which case alone Mr. de la Croix has drawn his account of our constitution in this particular of the power of the Legislature to condemn an individual to death. I will not attempt to state all the other grounds on

is, a particular law is made on the occasion, to affect only him. The proceedings in regard to this bill, are the same as in all other bills; it must, like them, pass through both houses of parliament, after which the king must give it the royal assent, without which judgment cannot be executed. The party accused may cause his advocates to speak against the bill; and the house cannot debate in his presence.

But let us observe what Montesquieu says upon this subject; for no reflections which I can offer will have either that majesty of genius, those beau-

which such a bill might proceed. This power is the despotism of the English constitution; but like all despotism it ought to be subject to the eternal laws of equity and morality. Without it I think our constitution would be less perfect; but it should be used seldom, and no man can or ought previously to define all its objects and cases of application.

The great, sound, constitutional check on this despotism is, that every bill of attainder is necessarily a private bill; and therefore, according to the fixed rules of parliament, the preamble which contains the facts charged as the grounds of the proceeding, must be proved by legal evidence at the bar.

There is another check. A bill of attainder expires, if incomplete, with the session. The king therefore can give an indirect negative to it.

Bills of pains and penalties, of which Mr. de la Croix has taken no notice, are used in cases of high misdemeanors. They are the same in those inferior crimes which bills of attainder are in cases of deeper malignity. They inflict only fines, imprisonments, disabilities, and such other punishments.

ritus

riful images, or that profound political judgment, which characterise the author of the *Spirit of Laws*.

“ There are (says he) in the states where most account is made of the liberty of the laws, instances wherein they are violated with respect to individuals for the general good. Such are in England the *bills of attainder* which correspond with those laws enacted at Athens against some individual, and which could not pass without having the suffrages of six thousand citizens. They correspond with the laws made in Rome against particular citizens, which were called *privileges*, and could only be made in the assemblies of the people; but in whatever manner they may be produced, Cicero is for their abolition, because the energy of law consists in its being enacted for all. I must own, however, (continues Montesquieu,) that the practice of the freest people who ever existed on the earth, induces me to believe that there are cases in which we must for a moment cast a veil over liberty, as we cover the statues of the gods.”

I leave my readers to judge of the two opinions of Cicero and Montesquieu; and shall only observe that the opinion of the latter, would have its danger, if not subjected to all the legal forms prescribed for such proceedings in England; and might authorise those popular executions which are so horrible. When of late a multitude of cries had doomed to death, and imperiously pronounced the fatal sentence on three

of their late ministers in France, would it not have been astonishing to hear one of those who had seized upon these victims crying out to the executive power : “ We have the authority of Montesquieu, “ the example of Athens on our side ; we are here “ more than six thousand citizens ; we judge that “ these accused persons against whom there are no “ witnesses, no precise depositions, are criminal “ and deserving of death. We are going to vio- “ late the law, which requires complaints, in- “ formations, and confronting of the accused with “ the accuser ; and will annihilate those culprits “ against whom the public voice is raised.”

Not one of these seditious legislators knew perhaps the name of Montesquieu, much less his works ; but the danger which frequently attends making exceptions to general laws, is still undeniable ; and Cicero deserves praise for having had the courage to combat the particular power which the Romans attributed to themselves of striking, from no authority but their single will, those whom justice dared not touch, for want of legal proof by which to condemn them.

I shall endeavour, in my examination of the English constitution, to keep up a regular train, a connexion, which I have been surprized at not finding in any of those authors who have written on the subject, not even in the work of M. de Lolme, which is so justly esteemed.

Civil

Civil liberty is not confined to the existence of man as a member of the public power : he has a private existence into the sphere of which the laws of England attend him : it is therefore necessary to know to what limits his private liberty extends.

The three grand relations in private life, are those of master and servant, of husband and wife, and of parent and child.

The English law distinguishes two kinds of servants ; those who serve in the house of their master, and those who serve him out of his house.

If there exists any contract between the master and the servant, the latter is obliged to remain in the service of the former during the term agreed upon : if the engagement is not limited, the law fixes the time to be a year. This forcing of servitude pertains to a law of police, which authorises the justices of the peace to compel all bachelors from twelve years old to sixty ; all married men till thirty ; and all women from twelve years, if they are destitute of subsistence, to enter into some servitude or manufactory.

The master who hires a servant * cannot dismiss him before the term of the engagement is expired, without having given three months warning to such servant ; who, on his part, cannot quit his service during that term, unless authorized by two justices of the peace, or with permission from his master. This regulation which at first view seems contrary to

* This relates to servants in husbandry.

liberty, is founded on an excellent social law : a young man or woman, whose parents cannot furnish them with the means of support, ought to be compelled to labour as a means of saving them from vice. Unfortunately the watchfulness of magistrates in this particular is rendered very difficult in great cities : how much debauchery, how many crimes, would it not prevent if in such places as London and Paris, there were to be an exact list made of all the inhabitants in the different divisions, for insuring the means of subsistence to each of them, and forcing all those who are able to labour, to enter into the service of a master, or into some work-shop until the age of sixty, a period at which the hospitals should receive those who had not had sufficient conduct and fore-thought, to save up a fund to supply the means of subsistence.

Liberty does not consist in the right of doing good or evil as we please, or of following, as we may be inclined, the paths of vice or of probity, for such liberty would be injurious to every good society : it consists in the power of exerting our industry by all legal means for gaining a subsistence ; of being able to satisfy by our money, all our inclinations which are not inconsistent with morality and good manners ; and, in fine, in being able to do every thing which does not injure individuals in particular, nor society in general. These truths, however trite, cannot be too often repeated.

A fa-

A savage life would be preferable to a social one, if society were to be troubled with a multitude of idle members, whose daily wants must excite them to theft and beggary, and who would depend on their fraudulent address, and on their importunity, for obtaining that maintenance which they did not chuse to earn by useful labour.

The second kind of servants in England are apprentices, engaged for a certain number of years by a contract which they enter into with their masters. The children of the poor may be apprenticed by the overseers of the poor, but they must be authorized by two justices of the peace,

The engagements between apprentices and their masters may be dissolved for reasonable causes, on an application made, by either party, to the court of justice held every three months (the quarter sessions) in each county. An apprentice may, at the expiration of his apprenticeship, exercise his trade in any part of England. This law, intended to excite youth to apply early to some industrious profession, has been thought to establish an unjust exclusion of those who, though they have not served an apprenticeship, might be able from their natural genius to exercise a trade without the regular course of instruction pursued under masters; and therefore, according to Blackstone, the courts of justice endeavour rather to restrain than to extend this part of the laws relative to apprentices,

The

The servant or apprentice who has dared to strike his master, is condemned to a years imprisonment, and sometimes to corporal punishment. The same law which protects the master, protects also the servant and the apprentice; the contract which bound them is broken if the master corrects them with harshness, or if *the master's wife strikes them*.

The third kind of servants are labourers, who work by engagement out of the house of their master. There are many laws relative to servants of this description, by which their hours of labour are limited, in summer, and in winter; the punishment of those who abandon their work directed; the justices of the peace and sheriff of the county, at the quarter sessions, authorized to fix their wages; and pecuniary punishment ordained for those masters and journeymen who pay or require more than the established rate of wages.

All these details relative to servitude, into which I thought it my duty to enter, may appear tedious, but they are absolutely necessary for conveying an idea of the English police; and proving that the people who of all others have hitherto set the highest value upon liberty, have still placed a curb on idleness, and forced the indigent to labour. This is a subject which in the present crisis of affairs, it is of much consequence for the people of France to consider, that they may form a true idea of the difference between licentiousness and liberty; between

tween absolute independence, and a legitimate submission to the laws approved by society, and established to harmonize its parts, and promote the general good of the whole.

“But wherefore, (some may say,) are all these laws;
“to fix the price of labour; to limit the hours of
“working; to oblige a man not to abandon his work,
“and to prevent the augmentation of his wages?
“Ought not interest to be the law of the journeyman
“and the employer? and if a man is disposed not
“to do any thing, why should he be forced to exert
“himself? Will not his wants compel him to seek
“for work? And will not a necessity for his services
“oblige the master to call for him? Leave them
“to contract in the manner most advantageous to
“each other.”

This is very specious theory, but it will never do in practice. In the first place the labourer is not always acquainted with his true interest. When he says to you, “I gain more by begging than I
“could by cultivating the ground;” how will you convince him that it would be for his advantage to prefer the assiduity of labour to the free and wandering life of a mendicant? If you leave to the employer the liberty of fixing the hours of labour and of rest, how can you tell that he will not take a base advantage of the necessities of the journeyman, and exhaust him by labouring beyond his strength? If you establish not a fixt rate of
wages

wages according to the local price of bread, and other provisions, how can you be certain that the workmen of the county will not combine, and oblige the farmer, or the manufacturer, to hire them on extravagant terms ; or that their employers may not avail themselves of their distress, to make them work for less wages than justice has decreed them ? If in the midst of the harvest, the labourer could abandon the field and leave the corn to perish, for want of being bound by law to perform the service he had undertaken, would not the master who might thus lose the fruits of his industry, lie always at the mercy of those on whom he depended ? And might not a rich capricious proprietor monopolize all the labourers of a county, in the moment when their labour was required on many farms, by offering them larger wages than other proprietors could give ? It is therefore for the interest of society that the poor should be forced to labour, because they must eat whether they work or live in idleness : it is for the interest of the labourer to have his wages fixed in proportion to the price of provision, that the rich may not take advantage of his wants ; and it is the interest of the master that labourers should not be able to make an arbitrary law, and quit at will a work which they have begun ; because the total ruin of his property might sometimes depend on the sudden and general suspension of that work. These are truths

truths which no reasoning can invalidate, and which cannot be contested unless by those who are blindly attached to a very different system.

I shall now proceed to the connexion formed by marriage, which comprehends the reciprocal rights and duties of man and wife.

Marriage is in England submitted both to the spiritual and civil law. If it be incestuous, that is, if it be within the degree of affinity prohibited by the laws of the church, the spiritual courts annul it.

The * civil law judges of its validity as it does of other contracts; it examines whether it has been made voluntarily; whether the parties were capable of contracting it; and whether it was solemnized according to the forms of law.

“ The first legal disability (says Blackstone) is a
“ prior marriage, or having another husband or wife
“ living.

“ The next legal disability, is want of age.
“ Therefore if a boy under fourteen, or a girl
“ under twelve years of age, marries, this mar-
“ riage is only inchoate and imperfect; and when

* If by *civil* law the author means the *municipal* law of this country, in opposition to the ecclesiastical law, he is clearly mistaken. The direct jurisdiction in all matrimonial causes, is notoriously in the spiritual courts: the courts of common law only take cognizance of marriages incidentally, as in ejectments, actions for debt against a woman pleading coverture, criminal indictments for bigamy or rather polygamy, and the like cases.

either

“ either of them comes to the age of consent afore-
 “ said, they may disagree and declare the marriage
 “ void, without any divorce or sentence in the spi-
 “ ritual court.”

“ Another incapacity arises from want of consent
 “ of parents or guardians. By a statute of George
 “ the II. c. 33. it is enacted, that all marriages
 “ celebrated by licence (for banns suppose notice)
 “ where either of the parties is under twenty-one
 “ (not being a widow or widower, who are sup-
 “ posed emancipated) without the consent of the
 “ father, or, if he be not living, of the mother or
 “ guardians, shall be absolutely void.”

* Notwithstanding the precision of this law, the parliament of Paris who must have been undoubtedly ignorant of it, were so far led away by false reports as to condemn Miss Hamilton, who had been ran away with by a chaplain from her father's house, to acknowledge for her lawful husband a vile ravisher who had betrayed her youth, while under eighteen years of age. This young woman, who had acknowledged her fault, took refuge, in the arms of her mother, with whom she went to France, to avoid the pursuit of the culprit; and there invoked the laws of hospitality, until the

• From the manner in which Mr. Berisford is here spoken of, and from other mis-statements of facts, Mr. de la Croix appears to have fallen into the very error which he attributes to the parliament of Paris; that of being led away by false reports.

odious bonds could be broken by the laws of England. The parliament of Paris struck despair into the bosom of the mother and the daughter, by authorizing the ravisher to seize upon her, whom he called his lawful wife; but happily for them, M. de Vergennes extended the royal protection to these strangers; the arret of the parliament was set aside in the council; and the marriage was afterwards annulled in England.

No written promise, nor even cohabitation, renders a marriage valid in England: the ceremony must be performed in a parish church or a public chapel. The archbishop of Canterbury can indeed grant a dispensation for the place of celebration; but all marriages must be preceded by publication of banns. *

Marriage can be dissolved only by death or divorce.

“ There are (says Blackstone) two kinds of divorce, the one *a vinculo matrimonii*, the other merely *a mensa et thero*: the one total, the other partial. The total divorce *a vinculo matrimonii* must be for some of the canonical causes of impediment before mentioned; and those existing before marriage, as is always the case in consanguinity, not supervenient, or arising afterwards.”

“ Divorce *a mensa et thero* is when the marriage is just and lawful *ab initio*, and therefore the law

• “ Or by licence from the spiritual judge,” says Blackstone.

“ is

“ is tender of dissolving it, but for some supervenient cause it becomes improper or impossible for the parties to live together; as in the case of intolerable ill temper, or adultery, in either of the parties. However, divorces *a vinculo matrimonii* for adultery, have of late years been frequently granted by act of parliament.”

In cases of divorce the law grants a yearly income to the woman, that she may support her rank after her separation.

The difference between the total divorce, and that which only separates the parties is, that in the first they may both form new matrimonial engagements, while the other only removes the husband and wife from the same dwelling, for which reason it is called *a mensa et thoro*.

Blackstone does not inform us what is the fate of the children of such marriages; but he says, that if the wife, banished from her husband's house, for adultery, continues in a course of infidelity, she loses her dower. But she is no longer an object of public concern, it is her unfortunate children which merit all the attention of the legislator. They seem like beings set adrift on the sea of life in a frail bark, the planks of which, though apparently bound fast together, have by separating at once, exposed these timid passengers to become the prey of the waves, and be swallowed up in their abyss.

If *adultery* on the part of the woman, is the cause of divorce, as she alone is culpable, it is just to reduce her to an annuity, and that the surplus of her fortune should belong to her children ; but if it is occasioned by *intolerable ill temper*, the fault may be equal in the husband and wife, or exist in the husband only, why then should the wife lose her fortune ; wherefore should the mother be separated from her children ; and why must the sweetest duty of life devolve exclusively on one parent ?

In case of madness or disorder of mind, it is beyond a doubt that the management of the fortune and the education of the children, should belong to that party which possessed their moral faculties, but in other cases it is not easy to determine.

I have dwelt on this subject because the French are now considering the means of introducing a law for the admission of divorces.

“ The husband also, by the old law, might (says Blackstone) give his wife moderate correction. For, as he is to answer for her misbehaviour, the law thought it reasonable to intrust him with this power of restraining her by domestic chastisement.”

This unfortunate power was undoubtedly derived from the Roman law, which permitted chastisement to be inflicted on the wife by the husband, who, according to the author of the *Persian Letters*,

shall send his son beyond sea to be educated in a Roman Catholic college, *shall pay a fine of one hundred pounds sterling, which fine shall go to the informer.*

There is another law on the same subject still more severe, by which “ he who shall be convicted “ of this offence, is declared incapable of giving “ evidence in any court of justice ; of being executor to any will ; of enjoying any legacy ; of “ holding any office ; and all his property is to be “ confiscated.” Thus the English, so free in their persons and the exercise of their faculties, have, from hatred to the Catholic religion, restrained the first right of nature, that of a father, by not allowing him to bring up his children where he pleases, and in the religion which he deems the best.

I have shewn the extent of a father’s authority over his children with respect to their marriage : I have shewn that the law rises above paternal power in regard to the children of the poor, by authorizing the overseers to take away those who cannot find a certain subsistence with their parents, and place them out as apprentices in employments useful to society. That melancholy spectacle does not of course exist in England which is so frequent in France, where an indigent father or mother are seen followed by a train of infants who excite compassion by their rags and misery.

According to the English laws, a bastard cannot be legitimated and rendered capable of inheriting, but by an act of parliament.

I be-

I believe that I have now sufficiently shewn the privileges of an English citizen, whether in his public or private character. Would I could draw a veil over that frightful scene of punishments which sully their criminal code; that code which the politicians of England pretend to be the most humane, the most equitable, of any existing in Europe. A Frenchman had, it is true, no right to find fault with its barbarity* while that of his own country was still more cruel; but in reforming the criminal laws of France, her legislators should not chuse the English system for a model.

The laws of England comprehend all capital crimes under the names of *high treason*, *petty treason*, and *felony*, the first consists in conspiring against the king, taking arms against the nation, or making false money.

The punishment of this crime is to be drawn on a sledge to the place of execution, suspended some time from a gallows, taken down while yet alive, have his heart torn out and thrown in his face, and his bowels into the fire; and to have his head exposed to view in some conspicuous situation, his property confiscated, his widow deprived of her dower, and his children of their rank.

* The very humanity of the English law is the necessary cause of the confusion which Mr. la Croix objects to our criminal code. It will not allow the infliction of the inferior punishments to a violent and excessive degree, or of death with circumstances of aggravation.

What a complication of * barbarity and injustice is there in this law ! to say nothing of the monstrous cruelty practised on the criminal, how inhuman is it to deprive the wife of her dower if she is not tainted with her husband's crime ! Was not her misfortune great enough in being united with a traitor, that the remainder of her days must be dragged on in poverty ? Must the children of a criminal be necessarily the heirs of his vices ? May they not throw a veil over the remembrance of their parent's guilt by their own virtues, and reconcile their country to the name they bear by rendering it illustrious ?

It is too absurd to rank in the same class of criminals, and to condemn to the same punishment, the regicide who lifts his hand against the chief of the nation ; the traitor who seeks to destroy his country by a civil war ; and the man who coins false money. This horrid inconsistency is, however, removed, and he who is convicted of coining is now only condemned to be † hanged.

The punishment of those who are privy to any conspiracy against the king or the state, and do not reveal it, is forfeiture of goods, and loss of income of landed property, and imprisonment, both for life.

* The policy of this law has been very ably vindicated by the late Mr. Charles Yorke.

† We know that in fact hanging is the real punishment for high treason ; the rest of the sentence, beheading, quartering, &c. being never put in execution till the criminal is dead.

This

This law is more equitable than that by which the unfortunate de Thou lost his head ; but still ought not a provision to be made out of the confiscated revenue, for furnishing the wife and children with subsistence ? Ought not the rigour of the law to be molified towards a wife who was not sufficiently patriotic for accusing her husband ; and towards the son who was afraid of shortening the days of his father, unless the pardon of the offender could be obtained as the reward of discovery.

By petty treason is understood the crime of a son who kills his father ; of a wife who kills her husband ; of an ecclesiastic who occasions the death of his bishop ; or of a domestic who destroys the life of his or her master. These are all great crimes, but there is undoubtedly a difference between them.

The punishment inflicted on criminals of this class is to be drawn on a hurdle to the gallows where they are to suffer.

Women convicted of any of these last-mentioned crimes, are condemned by the law to be burnt alive * ; but they are spared the horror of such a fate, by being strangled at the post before the flames reach them.

* It is extraordinary that the law by which the sentence of women convicted of any of those crimes, is changed into simple hanging, should not have been known to Mr. de la Croix.

Murder, theft, and forgery, in general are comprehended under the name of *felony*, and this is another of those barbarous confusions which mark a bad penal code.

The sentence pronounced against these crimes is to be hanged, and the punishment of the murderer is only aggravated by hastening execution, and delivering the body of the criminal to the surgeons for dissection. This is making a very slight difference between the villain who in cold blood deprives his fellow creature of existence, and the dishonest man who contents himself with thieving; the latter offenders have, indeed, the hopes of being transported, or sent to hard labour at home; but the law should never stand in need of being moderated by men: to reform the laws and then to execute them should be their first law.

Murder, unpremeditated, and happening from a rencontre, is for the first time punished only by burning in the hand with a hot iron.

Pilfering, and theft of little importance, is punished by whipping, or hard labour.

The authors of libels are condemned to stand in * the pillory; as are those convicted of using
false

* This is not a necessary part of the sentence; and in truth has not of late years been actually inflicted. Libels are a species of misdemeanors, all of which are punished according as the circumstances
are

false weights and measures. I see not any similitude between these two offences, that they should be subject to the same punishment.

Whoever strikes another in the palace of the king, so as to draw blood, must, according to the law, lose his right hand; and whoever commits the same offence in Westminster-Hall, while the courts of justice are sitting there, is condemned to imprisonment for life, and confiscation of property.

To demonstrate completely the vice of this criminal code on which it has been so painful to me to dwell, I shall finish by mentioning that, according to one of its articles, all drunkards, vagabonds, debauchees, and idlers, may be set in the stocks, or obliged to pay a fine of ten pence. Should such a law be put in force, to what arbitrary condemnation would it expose citizens; and is it not sporting with honour to put disgrace upon a level with a fine of ten pence.

I deem it indispensable to speak of a privilege which to me appears a great deformity in the English legislation; I mean that which is called *the benefit of clergy*.

This privilege had its beginning in an encroachment of the pope on the temporal power, in be-

are more or less aggravated, either by fine, imprisonment, whipping, or pillory, or all of these, at the discretion of the court; all misdemeanors are not therefore punished alike.

half

half of the clergy ; and it imports that they may in cases of felony, decline secular jurisdiction. Originally this privilege was to be demanded before conviction ; an inquisition was then taken whether the party was guilty or not ; if acquitted he was discharged ; but if found guilty, he was then delivered to his ordinary. The privilege so restrained, was confirmed by various statutes from the 3d year of Edward I. But at common law, if the party had not demanded his clergy before conviction, he lost it. This however was altered about the time of Henry VI. The party indicted was to answer to the felony, and if he was found guilty, upon demanding his clergy after conviction, was to be allowed it by the judge ; and this course has been ever since observed.

In order to enjoy this privilege, it was necessary to be distinguished by some means as a member of the clergy ; and in the end it was resolved that the culprit should prove his right to that title by shewing that he could read. In these times of ignorance, whoever knew how to read and write was called a *clerk*, and from thence, without being in holy orders, he participated in the privileges of the clergy.

It appears from the books that laymen who could read, have been allowed the benefit of clergy from the 23d year of Edward the III^d. but, in after times, when the use of printing had accelerated this

this first part of study, all the citizens were soon found in a situation to enjoy the benefit of clergy; and for avoiding an abuse which promised impunity to guilt, it was enacted in the reign of Henry VII. that *persons not in holy orders*, should use it only once; and should further be marked or branded with a hot iron in the left hand. This law left a distinction in favour of those in holy orders, which was abolished by Henry VIII. and in effect re-established by Edward VI. This last statute ordered that the peers of the realm, though they could not read, should enjoy the benefit of clergy once, without any burning in the hand, loss of inheritance, or corruption of blood; and they were to have this privilege in all cases of felony, where others were entitled to their clergy, and for the crimes of burglary, highway-robbery, horse-stealing, and sacrilege; in which cases all other persons were ousted of their clergy by the same law.

This statute instead of doing honour to the body of peers, seems to disgrace them, since it supposes the members of that body capable of staining their names with the crime of theft.

James the I. extended this indulgence to women convicted of stealing property under the value of ten shillings, even when they could not read; but they were to be branded in the hand, and to be further punished with imprisonment, whipping, stocking, and sending to the house of correction for

for any space not more than a year, at discretion of the judge.

By the statutes of William and Mary, male and female culprits were put on the same footing, wherever men had a right to claim the benefit of clergy.

After having undergone various modifications, the benefit of clergy is at last thus established.

All peers have a right to claim it *once* in all cases where others may claim it, and also in cases of burglary, highway robbery, horse-stealing, and sacrilege; and they are to be immediately discharged, without suffering any punishment.

All persons in holy orders have a right to claim it *repeatedly* in all cases where a lay-person (not being a peer) may claim it once; and they have also a right to be immediately discharged without suffering any punishment.

All those who make part of that estate which is called the Commons, enjoy this right *once* in all cases of felony, unless where it is particularly taken away by statute; but they are to be marked in the hand with a hot iron, which however by a late statute may be altered, if the court think fit, to a moderate fine in all cases, or to public or private whipping, except in cases of man-slaughter: and branding is, I believe, now wholly disused in consequence. They may be further imprisoned for any time not exceeding a year, and for some particular

ticular offences under particular statutes may be transported for seven or fourteen years.

This benefit was not allowed by common law either in cases of high treason or sacrilege; and various statutes have refused it to those who are guilty of petty treason, murder, larceny, that is a felonious secret taking from the person; a stealing from a shop, or dwelling house; stealing woollen manufactures from the tenters; stealing the king's naval stores, and horse-stealing; of robbing in or near the highway, in a dwelling-house, booth, or tent, and indeed robbery in general; of burglary, arson, and some other crimes.

By the benefit of clergy the property of an offender is saved from confiscation to the king; or more correctly he is restored to his property, and also to his credit in law.

From the foregoing explanation it will be understood why the dutchess of Kingston, accused and convicted of adultery and bigamy, escaped the punishment denounced by the law against those offences, by claiming her privilege as the wife of a peer of the realm. *

This privilege is one of the greatest blemishes of the laws of England. What indeed can be more
aburd

* The author supposes too in a passage which I have taken the liberty to expunge, that Lord George Gordon had privilege of peerage, under 1 Edw. VI. cap. 12; and was therefore only imprisoned for one year for the riots of 1780. Lord George Gordon is no peer,

absurd † than that the unfortunate culprit who knows not how to read, and who is for that reason more excuseable for his ignorance of the law, should be hung for theft, while he whose education renders him more criminal has his life saved !

• But this is not, as I have shewn, the only inconsistency to be found in the English legislation.

I shall now proceed to examine the liberty of the press, which is one of the principal points of the English constitution.

The liberty of the press is secured by this ;— courts of justice have no power to take cognizance of any thing which has been printed, unless it has been also published ; nor to punish an author but after he has been found guilty by a jury.

peer, and but a plain esquire in contemplation of the law. The acquittal of his lordship was so notorious, and the honour gained on the occasion by his very learned and eloquent advocate so much the subject of conversation at the time, that it is truly surprising M. de la Croix, should have made such a mistake.

† This censure is no longer founded in truth ; as the statute of 5 Ann. cap. 6. puts those who cannot read, and those who can, on the same footing. In fact the benefit of clergy is now become little more than a name serving to distinguish the classes of felonies ; those which are not, from those which are, subject to capital punishment by law.

“ The benefit of clergy (says Mr. Justice Blackstone, in his
 “ argument on the case of Perrins and Blake) took its origin from
 “ principles of popery ; but is there a man breathing, that would
 “ therefore now wish to abolish it ? ” *Hargrave's Law Tracts.*

People

People are much mistaken who believe that writers are authorised in England to calumniate or insult whomever they please; the same laws which protect the persons and property of citizens, protect also their honour. The law does not even allow a writer, accused of having published a libel, the right of proving the facts which he has advanced to be true; because the bill of indictment must always contain the words *false and malicious*; so that if the accused person be declared, in the verdict of the jury, *guilty of writing a malicious libel*, he may be condemned to a heavy fine * for his baseness.

The writings of a person named † Annet were, notwithstanding this liberty which is believed so extensive, burnt by the hand of the hangman, and the author made to stand in the pillory and imprisoned. Dr. Shebbeare was also set in the pillory and confined in prison, for his letters addressed to the people of England. But where ‡ the liberty of
the

* Or to whipping, imprisonment, and the pillory. The author seems not to have known distinctly of the civil action for damages in cases of libel.

† I do not know who is here meant; but there are instances enough of persons so punished for libels.

‡ It is surprising that the author should have laid this doctrine in such broad terms, after the case which he has just before instanced of Dr. Shebbeare. The quotation which immediately follows, might have helped him to a proper qualification and distinction.

the press is without bounds is when that liberty is employed against government. It is a principle generally acknowledged in England ; and which was strongly laid down to the jury in a celebrated cause, that “ although speaking ill of individuals
 “ may be blameable, the public acts of government
 “ ought to be submitted to public examination ;
 “ and that a man renders a service to his fellow
 “ citizens who freely speaks his opinion on such
 “ subjects.”

It was in consequence of these principles that, some years ago, when the attorney-general prosecuted the author and printer of a libel against the king, the jury instead of confining themselves to say *guilty*, added *of printing and publishing only*, and as there is no law which ordains any punishment against him who *prints and publishes only*, the judge could not inflict any upon the criminal. Had the jury pronounced the single word *guilty*, the judge could have condemned the person to the punish-

tion. Perhaps the greatest stride made in the doctrine of libels, is a late case, in which a man was punished for publishing his speculations on the probable destination of our armament during the late dispute with Spain. It must however be observed, that judgment there went by default ; consequently there was no question before the Court on the doctrine ; the *intention*, that is the *libellous intention* being, in such cases, *taken to be admitted*.—This prosecution it is generally understood, was instituted on the representation of the French government under the new Constitution.

ment

ment ordained for the authors and printers of libels.

The English suppose themselves to take part in the administration, and to influence the decisions of their representatives, by means of the multitude of news-papers which are profusely circulated among them, and which communicate the debates and opinions of both houses of parliament. Perhaps this idea may not be ill founded: for who can doubt of the French legislators having been influenced by these little publications, dispersed among the people with a view to prepare their minds for receiving the decrees issued from the legislative body ?

The habit of seeing this liberty of the press extended even to licentiousness, has rendered the English ministers more insensible even than those of France to the shafts of calumny, and it may be truly said of them, that *wounds have made them invulnerable.*

It is much to be wished, that the authors of the French periodical publications may not abuse this liberty of the press, with which their constitution is now enriched: the consequence of such abuse would be, that, in a little time, those truths which it might be of the greatest importance to make public, would lose their effect, and pass unnoticed among a multitude of falsehoods.

What I have already said might be sufficient for

VOL. II.

Y

enabling

enabling my readers to judge of the excellencies and imperfections of the English constitution ; I propose however to examine those points which, now that we have an idea of a more perfect government, appear to deserve reprehension. But before I proceed to that examination, I must beg leave to remark, that the process of bringing in a bill, and carrying it through the English parliament in the manner I have described in the preceding chapter, is preferable to the mode observed in the French legislature for producing a decree : and I cannot forbear observing, at the same time, that it is of the greatest importance for a legislative assembly, to guard against that first glow of enthusiasm, that quick impulsive zeal for the public good, which sometimes hurries men beyond the object they proposed to accomplish.

It is for this reason that I wish to have established, in the French legislative body, a regulating power, which might for a moment suspend decrees, and bring them again under the cooler investigation of the authority by which they were created : and I would have no resolution acquire the title, and force of a decree, until it had undergone this revision. If this mode had been followed, no repentance, no regret, would have mixt with the works of wisdom and patriotism. For instance ; if, after the representatives of the people had abolished the ecclesiastical tenth, and thus stoppt one
of

of the chief sources of the revenue of the clergy, a committee of revision had at the end of eight days reported the resolution, and explained at the same time that it would be a wise measure to reduce this tenth to a twentieth sheaf; to make the contribution uniform throughout the kingdom; and, after subjecting the produce to the expence of cultivation, to convert it into a national revenue; the assembly perhaps, upon being then asked by the committee, if it persisted in its resolution, would have preserved to the nation an income of above forty millions of livres, which was lost in one single night.

If, when the decree was made by which pensions of seven hundred livres were granted to religious mendicants, a resolution only had been passed, the committee of revision might have explained to the legislature, that men always condemned to the practice of the greatest frugality, who had no subsistence but the gifts which charity bestowed, and who rendered no service to the nation, might waste away their days in their asylums upon the same stipends allowed to the zealous defenders of the nation: upon this representation, such a decree might have been made as would have left the deputies of the people less embarrassed to find a mode of taxation, which would correspond with the ability of the contributors.

It will, I doubt not, be objected to my plan;

that such a mode of proceeding would retard the business of the legislative body; but I shall beg leave to observe, in answer, that twenty sound and immutable decrees would do more honour to a legislature, than a hundred formed in such a manner as to expose the whole work to destruction, from the injustice of the multitude, or the machinations of intrigue.

At a moment when every mind was enflamed by the desire of establishing one grand system of equality, some individuals, it is said, formed a project of taking from the brave warriors of France the ornament on which they have set the highest value; from the hope of obtaining which they have prolonged their services; for which many among them have continued to serve, after relinquishing their pay; and which they have all received with transport. If such a motion had been made in the assembly, and followed by a decree, it would certainly have been to be wished, that the enthusiasm from whence it proceeded had felt the check of calm reflection, and not rapidly carried affliction into the bosoms of all those who would have thus seen themselves despoiled of the ostensible proof of their courage; and of the honourable balm which had been applied to their wounds.

There are in life two precious enjoyments which ought to be preserved to good a man;—that of priding himself in the virtue of his ancestors, and
of

of taking pleasure in anticipating that of his descendants. Let it be said no more, *I am noble, because one of my ancestors were so* ; but let a man rather say, *my name is honourable, because the state has always received services from those who have borne it ; and it will not cease to be so, until those, to whom it shall be transmitted by me, become useless to their country.*

C H A P. XXV.

Continuation of the Constitution of England.

OF THE COURTS OF JUSTICE; AND OF THE POLITICAL SITUATION OF ENGLAND WITH RESPECT TO OTHER POWERS.

WE have seen the forms of criminal proceedings in England: we will now take a view of its courts of justice, and of the business peculiar to each court.

The first, after the House of Lords, is *the court of Common Pleas*, which formerly made part of the *King's Court* *, and followed his person: but one of the articles of the great charter imports that it shall be stationary; and it is now fixed at Westminster. This court is composed of a lord chief justice of the common pleas, and three other judges. All causes between individuals are

* This court sat constantly in the king's hall, and was composed of the king's great officers of state, who resided in the palace. It is called by Bracton and other ancient writers, the *Aula Regia*. It removed with the king, as the imperial chamber did with the emperor.

tried

tried here * by original jurisdiction, and a writ of error lies from hence † to the Court of King's Bench.

The next is ‡ *the Court of Exchequer*, which takes cognizance of all matters relative to the revenue of the state.

The third is *the Court of King's Bench*.

“ The jurisdiction of this court (says Blackstone)
 “ is very § high and transcendant. It keeps all
 “ inferior jurisdictions within the bounds of their
 “ authority, and may either remove their proceed-
 “ ings to be determined here, or prohibit their pro-

* The French text says, *in the first instance*, which does not apply exclusively to this court, as the other courts also entertain civil causes in the first instance: but the Court of Common Pleas has *original jurisdiction* in them; the other courts have a *jurisdiction* founded on *fiction*. The court of King's Bench, on the fiction of the defendant, being in custody of the marshal, and the court of Exchequer, on the fiction that the plaintiff is the king's debtor.

† The original says *by appeal*; but an appeal in civil law (and French law is chiefly civil law) removes all the proceedings complete: a writ of error only the record, and is in truth an appeal not on the whole merits, but only on the law of the case, as it appears on the face of the record.

‡ The court of Exchequer has an *equity* side as well as a *common law* side.

§ The stile of the King's Bench purports it to be holden *in presence of the king himself*. The writs of this court are made returnable *coram nobis* (before us); the writs of the court of Common Pleas are returnable *coram justiciariis nostris* (before our justices).

“ gress below. It superintends all civil corpora-
 “ tions in the kingdom. It commands magistrates
 “ and others to do what their duty requires, in
 “ every case where there is no other specific reme-
 “ dy. It protects the liberty of the subject, by
 “ speedy and summary interposition. It takes
 “ cognizance of both criminal and civil causes.

“ Yet even this so high and honourable court
 “ is not the *dernier resort* of the subject: for if he
 “ be not satisfied with any determination here, he
 “ may remove it by writ of error into the house of
 “ lords or the court of Exchequer chamber.”

The prison of the King's Bench is more like a noble hotel than the sojourn of captivity*: every thing is found united there which can beguile the weariness of prisoners; such as billiards, coffee houses, and assembly-rooms: and a concourse of people are continually seen going in and out there. Any man, who has been arrested at the suit of another, may, if he chuses, be removed to this prison; but as the accommodation found there is not gratuitously offered, but to be paid for at a

* The prison itself and the rules are here confounded. The latter cannot be obtained but by giving security to the full amount of the debt; and they have of late been greatly contracted. Their limits are now confined to a narrow circle: and all houses of entertainment, wherever situated, are considered as out of the rules, and consequently forbidden to prisoners enjoying the benefit of the rules.

very high price, it is in general inhabited by those debtors who spend their income there, instead of acquitting with it their engagements. This may be the more easily effected, as it is a maxim in the English law, that *both person and property cannot be seized*. Thus a debtor * who has his fortune in his pocket-book, or he whose revenue proceeds from the funds, may brave his creditors, and live in the midst of ease and pleasure in this asylum.

Each of these three courts are composed of four judges, and the one which presides in each is dis-

* It is *bankrupts* in the original. But it was not true of those whom our laws call *bankrupts*. All dealers, or persons who in any manner live by buying and selling (and the construction has been made pretty extensive) are compelled, under severe penalties, indeed no less than death itself, to make a fair disclosure of their effects, which are assigned to proper trustees, for the benefit of all who prove their debts upon them.

As M. de la Croix has been in general very severe upon our laws against really insolvent debtors, I think it indispensable, to point out to him in this place, one instance among many which might be produced, to prove how careful our legislature has been to afford all possible relief to persons of that description. By a bill, called *the Lords Act*, passed in the 32 George II. it was enacted, that any debtor, confined for debts within the sum of *one hundred pounds*, should, upon giving up to his creditors all his effects, except bedding, wearing apparel, and implements of industry belonging to him or his family, within the value of ten pounds, obtain his enlargement. And by a statute made in the 26 George III. the same indulgence was extended to all debtors confined for debts within *two hundred pounds*.

tinguish

“ gress below. It superintends all civil corpora-
 “ tions in the kingdom. It commands magistrates
 “ and others to do what their duty requires, in
 “ every case where there is no other specific reme-
 “ dy. It protects the liberty of the subject, by
 “ speedy and summary interposition. It takes
 “ cognizance of both criminal and civil causes.

“ Yet even this so high and honourable court
 “ is not the *dernier resort* of the subject: for if he
 “ be not satisfied with any determination here, he
 “ may remove it by writ of error into the house of
 “ lords or the court of Exchequer chamber.”

The prison of the King's Bench is more like a noble hotel than the sojourn of captivity*: every thing is found united there which can beguile the weariness of prisoners; such as billiards, coffee houses, and assembly-rooms: and a concourse of people are continually seen going in and out there. Any man, who has been arrested at the suit of another, may, if he chuses, be removed to this prison; but as the accommodation found there is not gratuitously offered, but to be paid for at a

* The prison itself and the rules are here confounded. The latter cannot be obtained but by giving security to the full amount of the debt; and they have of late been greatly contracted. Their limits are now confined to a narrow circle: and all houses of entertainment, wherever situated, are considered as out of the rules, and consequently forbidden to prisoners enjoying the benefit of the rules.

very

of the Arch-bishop of Canterbury, called the Court of Prerogative, where all wills are proved.

This * prelate draws an immense revenue from a remaining branch of the feudal system. A son cannot succeed to his father's property without permission in writing from this arch-bishop, who cannot indeed refuse that permission without legal cause; but he is nevertheless paid for what he is obliged to grant. It is by the arch-bishop that *notaries public* are appointed: but these offices are not bought as in France, where the possessors value their services in proportion to the price they have paid for their appointments; and are by degrees reimbursed by the public, the prodigious sums which they have had the imprudence to expend in the purchase.

cil, with the addition of the judges sitting under a special commission: and we may add, that the privy council is in itself a court of appeal from our colonies and outlying dominions.

* This is by no means correct. The archbishop's permission is not necessary: but an act of his court, under his seal, is the legal evidence of the father's intestacy, to shew the son's title to demand the debts and other personals of his father in the hands of others. This has no connection whatever with the feudal system, but is a necessary consequence of the testamentary law of the kingdom being committed to the administration of the ecclesiastical courts. Nor has the arch-bishop, or any other prelate, in whose court the intestacy is to be proved, a *single shilling* for it. Their officers indeed have certain moderate fees, established by acts of parliament, and in no case exceeding a few shillings.

The

tinguished by the title of lord, added to the name of his office and his tribunal. The magistracy of England is thus confined to twelve judges, who are obliged to divide for making the circuit of the kingdom twice every year, at lent and mid-summer, in order to hold the assizes, where they try and determine both civil and criminal causes.

There is a fourth court, called the *court of Exchequer Chamber*, where all the twelve judges sit, and finally judge causes brought before them by writ of error from other courts*. The Lord high Chancellor sometimes assists in this supreme court.

There are several other courts in England; such as the Admiralty court, where all affairs relative to the marine are determined; and the † court
of

* They do not finally judge causes thus brought before them. From their determination there still lies, in the *dernier resort*, a writ of error to the house of lords.

† The Archbishop of Canterbury has other courts; *the court of Peculiars and the court of Arches*, which is a court of appeal from the consistories of the several dioceses. Every bishop has also his court, and many archdeacons, and corporate bodies, such as deans and chapters. There is, besides, the court of Delegates, to which an appeal in the last resort lies from the court of Arches, and from the court of Admiralty in its ordinary jurisdiction of causes civil and maritime. The court of Admiralty, moreover, has two other jurisdictions, one *criminal* over pirates and revoltiers at sea, and another in matters of *prize*. From the latter an appeal lies to the lords of appeal in prize causes, who consist of the privy council,

The court of Lancaster, by a particular establishment, has the exclusive right of deciding all the affairs of that duchy. And in fine, the lord high chancellor of England, who is one of the principal officers of the crown, and who may be considered as the first minister of state, though that pre-eminence is attributed to the first lord of the treasury, holds what is called *a court of equity*. It was instituted to protect the subjects against frauds, and breeches of trust, and for softening the rigour of the law*. The forms of proceedings are not the same in this as in other courts, neither has its decrees the same force. The citizen who refuses to appear, or to submit to its *injunctions*, is only subject to be taken to a particular prison, and never to the seizure of his real or personal property.

To the lord chancellor belongs the † appointing

* This is an erroneous opinion imbibed probably from *Lord Kaims's Principles of Equity*. Blackstone has the following passage on this subject: "It is said, that it is the business of a court of equity in England to abate the rigour of the common law. But no such power is contended for. Hard was the case of bond creditors, whose debtor devised away his real estate; rigorous and unjust the rule, which put the devisee in a better condition than the heir: yet a court of equity had no power to interpose."

Blackstone's Commentaries, b. iii. p. 430.

† The lords-lieutenants of counties, or rather the *custodes rotularum* (which the same noble persons generally are) claim a sort of right of recommending to the chancellor, in the case of justices of the peace.

The courts of *Affize* are formed upon a commission from the king: in these courts are verified, by the declarations of juries, the matter of fact in civil causes depending in the courts at Westminster.

In this account of the English courts of justice is discoverable the first judiciary plan which was presented to the national assembly of France, and received there as a marvellous creation: the one which has been preferred appears to me deserving of as much regard.

In a kingdom so extensive as France ambulatory judges could never visit all the cantons, and all the districts, unless there were a great number of them, without losing much time in their journey. Besides during their absence the immoveable courts would be destitute of their proper magistrates; and they ought to be at all times ready for business, that the law may never be dormant, but by its constant presence awe down guilt and knavery.

It would be superfluous for me to speak of the court of the Earl Marshal, where every thing relative to coats of arms and genealogies is determined, since such an establishment would at this time be wholly useless to the French: but if one were established in that nation, which should judge of the civic virtues, and regulate all honorary and pecuniary rewards, it might confine the enthusiasm, the partiality, of the municipalities, to more steady principles of justice.

The

The court of Lancaster, by a particular establishment, has the exclusive right of deciding all the affairs of that duchy. And in fine, the lord high chancellor of England, who is one of the principal officers of the crown, and who may be considered as the first minister of state, though that pre-eminence is attributed to the first lord of the treasury, holds what is called *a court of equity*. It was instituted to protect the subjects against frauds, and breeches of trust, and for softening the rigour of the law*. The forms of proceedings are not the same in this as in other courts, neither has its decrees the same force. The citizen who refuses to appear, or to submit to its *injunctions*, is only subject to be taken to a particular prison, and never to the seizure of his real or personal property.

To the lord chancellor belongs the † appointing

* This is an erroneous opinion imbibed probably from *Lord Kaims's Principles of Equity*. Blackstone has the following passage on this subject: "It is said, that it is the business of a court of equity in England to abate the rigour of the common law. But no such power is contended for. Hard was the case of bond creditors, whose debtor devised away his real estate; rigorous and unjust the rule, which put the devisee in a better condition than the heir: yet a court of equity had no power to interpose."

Blackstone's Commentaries, b. iii. p. 430.

† The lords-lieutenants of counties, or rather the *custodes rotularum* (which the same noble persons generally are) claim a sort of right of recommending to the chancellor, in the case of justices of the peace.

of all justices of the peace throughout the kingdom. He is visitor, in right of the king, of all hospitals, and colleges, of the kings foundation. He is the guardian of all infants, idiots and lunatics: and has the general superintendance, of all charitable uses in the kingdom*.

Though the chancellor is applied to for an interpretation of the true spirit of the laws, he is not suffered to depart from the letter, or to violate the forms: he can only extend them in embarrassing circumstances; and where the evidence of guilt is not sufficiently supported by legal proof.

The police of the city of London is under the direction of the lord mayor, whose power is very extensive. He is as it were monarch of London; but his reign is only for a year. He has a court composed of great officers; the city sword is always carried before him; and his jurisdiction extends over the city and suburbs of London, and the river Thames. This place is worth three thousand pounds a year, exclusive of casual perquisites sometimes double the fixed income. The lord mayor has the nomination to above † two hundred offices:

* Blackstone says, "The king as *parens patriæ* has the general superintendance of all charities; which he exercises by the keeper of his conscience, the chancellor." *Blackstone*, book iii. page 427.

† The author probably reckons by mistake all the offices in the gift of the corporation and livery-men.

he has under him twenty-six magistrates, who are distinguished by the title of *aldermen*, and who direct the police in the twenty-six quarters (wards) of London. These magistrates hold their offices for life; and they chuse among themselves the lord mayor, who must always be a member of one of the companies of the different trades established in the city. Thus we behold the magistrate, who presides over the civil government of London, with the dignity of a monarch, chosen out of those useful professions which are there so wisely considered as honourable.

A high sheriff is an officer appointed annually by the king in each county. This office participates of the ministerial and judiciary power: and it is he who causes the orders of the king, and the writs which are addressed to him from the courts of justice, to be carried into execution. The sheriff's business is of the highest importance: he appoints the jurors in all trials, both civil and criminal: he causes sentences to be executed: he decides at election †, whether the voters are duly qualified to give their suffrages: he receives all

† This office belongs to the high sheriff at elections for counties only: in cities and boroughs it is some officer of the corporation that makes the return. There lies an appeal from the decision of all returning officers to the house of commons; and an action may be brought for damages, if they act improperly.

finer which culprits are sentenced to pay, and disposes of them according to the orders given him : he holds a court of justice ; and has the first rank in the county, preceding all nobles, while he is acting in the discharge of his duty.

The justices of the peace, established in the counties, are in some respects in the nature of deputies to the high sheriffs. These magistrates carry into execution the greater part of the parliamentary laws relative to the highways ; to the poor ; to vagabonds ; and to risings of the people. They interrogate, and commit provisionally to prison those who disturb the public peace, until the grand jury has determined whether there is sufficient grounds for trial at the assizes.

Besides the sheriff and justices, there are in every county two officers specially charged with examining the true cause of all deaths, where there is any suspicion of violence. (These are called *coroners*, and are assisted by a jury.)

* In every manor the lord of the place, who was formerly called *baron*, has a court for registering

• Blackstone, in speaking of the *court-baron*, says,

“ The *court-baron* is a court incident to every manor in the
 “ kingdom, to be holden by the steward within the said manor.
 “ This court-baron is of two natures ; the one is a customary
 “ court, of which we formerly spoke, appertaining entirely to the
 “ copyholders, in which their estates are transferred by surrender
 “ and admittance, and other matters transacted relative to their
 “ tenures

ing fines and resignations. The immediate officers of police in cities, towns, and villages, are called *constables*: these are subordinate to the justices of peace in the several counties, and to the mayor, aldermen, town reeve, or other magistrates of every city and town, who are also justices of peace within their bounds; but they have nevertheless a power of confining disorderly persons, until they can

“ tenures only. The other of which we now speak, is a court of
“ common law, and it is the court of the barons, by which name
“ the freeholders were sometimes anciently called: for that it is
“ held before the freeholders, who owe suit and service to the ma-
“ nor, the steward being rather the register than the judge. These
“ courts, though in their nature distinct, are frequently confounded
“ together. The court we are now considering, viz. the freehold-
“ ers court, was composed of the lord’s tenants, who were the
“ *peers* of each other, and were bound by their feudal tenure to
“ assist their lord in the dispensation of domestic justice. This was
“ formerly held every three weeks; and its most important busi-
“ ness is to determine, by writ of right, all controversies relating
“ to right of lands within the manor. It may also hold plea of
“ any personal actions, of debt, trespass on the case, or the like,
“ where the debt or damages do not amount to forty shillings.
“ Which is the same sum, or three marks, that bounded the jurif-
“ diction of the ancient Gothic courts in their lowest instance, or
“ *fouring-courts*, so called, because four were instituted in every
“ superior district or hundred. But the proceedings on a writ of
“ right may be removed into the county court by a precept from
“ the sheriff, called a *rele*. And the proceedings in all other ac-
“ tions may be removed into the superior courts by the king’s
“ writs of *pone* or *accedas ad curiam*, according to the nature of
“ the suit.” *Blackstone’s Comment.* b. iii. p. 34.

be carried before the proper magistrate for examination. Such is the chain of the civil authority, and of the police.

I shall now examine England with respect to her political importance. This, beyond doubt, is considerably diminished by the revolution in the United States of America : in which country she now possesses only Canada and Nova Scotia. The power of England has also been for some years weakened in Ireland : and * Scotland will one day avail herself of the example, for throwing off the bondage in which she still remains.

The English establishments in the Antilles, and on the coast of Africa, are not equal to the French : and that part of Saint Domingo, which belongs to France, affords alone more produce than all the different British colonies. But it is from her dominions in India that her greatest consequence is derived : it is there that an immense river of wealth flows for her use. She possesses the whole of Bengal, the richest and most fertile province in the Mogul empire. Its population amounted to nine millions of inhabitants, when the English became its masters ; but the tyrannical government of the India company is said to have reduced them

* M. de la Croix seems very little to have understood the principle of the Union, which will probably bid defiance to his friendly prophecies.

to * six millions. Besides this province, England possesses all the coast of Oriza, and that of Coromandel, in which their dominions are bounded by the mountains only, and the cities of Surat, and Cambay, the first of which is the most commercial city in India. The islands of Bombay and of Salcette, on the side of the Marattas, make also part of the English possessions; and they have beside, many forts and districts on the side of Malabar, and a great number of factories and settlements in other parts of Asia.

The territorial revenue of these possessions amounts to above a hundred and fifty millions of French livres †.

If the riches of England is centred in the East, there also resides her military force: and while the island of Great Britain has no more than thirty thousand men in arms, she maintains bodies of troops to the amount of one hundred thousand men; seventy thousand of whom are seapoys, or

* The population of Bengal, both when it came into our possession, and at this hour, is very much under-rated in this estimate.

† About six millions and a quarter sterling. But it must be observed that much the greater part of this revenue is spent on the spot, in the establishments of the company's service. Mr. Hastings, in his Review of Bengal, written by him at sea, and published soon after his arrival here, gives his opinion, that India will not afford more than *one million sterling* to be annually drawn from thence. This is strong testimony from a person who claims it as his chief merit, to have increased that revenue.

Indian soldiers, kept in her pay. But she has no reason to fear that these soldiers will ever become the instruments of despotism in the hands of a monarch whom they know not, and from whom they receive no orders.

There was a time when the power of France in India was able to counterbalance that of England, but the establishments which now remain in her possession serve only to proclaim her weakness. At this moment when she is threatened with war, has she not reason to regret her not having taken advantage of the time of peace for fortifying the isle of France ; furnishing it with ammunition and provision ; and * sending thither, *under pretence of trade*, both ships and men ; which on the first act of hostility, and before an English squadron could arrive, might have carried dismay and war into their territories.

The revenue drawn from thence being thus intercepted or suspended, England would have found herself unable to maintain a war in Europe, and to pay the interest of her national debt, without laying an additional burden of taxes on the people of Great Britain, who already feel themselves overwhelmed by those to which they have voluntarily submitted.

* One of the committees of the National Assembly has spoken a still more direct language on the subject. But an Englishman may doubt, whether one or the other is in perfect unison with the pacific system professed by the new government of France.

To be convinced of this truth, it is only necessary to consider the present state of the public debt of that country, the interest of which amounts to eleven millions sterling a year, a sum equal to two hundred and forty millions of French livres. When to this sum is added the expence of the civil list, and of maintaining her army and navy, it must be evident, that, in order to be punctual in her engagements, and support the weight of administration, and of her defensive force, England must have a revenue in time of peace to the amount of four hundred millions of French livres *. If therefore her supplies from India were cut off, she would be at once deprived of the means of carrying on a war, and paying at the same time the interest of her debt ; a failure in which must bring on the loss of her credit, and the overthrow of her government must soon be the consequence of that loss.

From hence it is evident, that India is the place where all the efforts of France should have been directed against her powerful rival, Whatever conquests she had made there would have increased her resources, and lessened those of England. But hitherto her administration has done nothing but commit political faults, to which their last commercial treaty gave the finishing stroke,

* About sixteen millions seven hundred thousand pounds sterling.

I have hitherto endeavoured to represent the English government in its true character: I shall now examine the vices attributed to it by modern politicians and state-reformers.

The English (say they) consider their parliament as the basis of their liberty: but what is their liberty?

It is not *the liberty of thinking*: since neither religious nor civil toleration is established amongst them, except for certain sects. * Roman catholics are persecuted in England: a priest who should say mass would be hanged: and even the king himself is not free to perform in secret those acts of worship which he believes required by his conscience.

It is not *the liberty of commerce*, for many species of it are prohibited there, such as that of exporting wool: all are subject to ridiculous laws by oppressive corporations: and some are encouraged by † premiums at the expence of the nation.

A great part of the articles of commerce are subjected to duties, so much the more fatal, because they violate the rights of citizens, the liberty of travellers, the use of property, and even the sacredness of that asylum which should be afforded to every man by his own house.

* The rigour of our penal laws against the catholics has lately been very much relaxed.

† This is surely no infringement on the freedom of commerce.

It

It is not even *personal liberty*, though it is that which has been the most considered; since it may be * violated on the oath of a man who claims a debt, though an imaginary one. A minister cannot cause a citizen to be arrested by order of the king; but he may very easily suppose him a creditor: and the injury which the society interdicts its chief, is permitted to any base individual, or to the vilest bailiff.

Personal liberty is in another case violated with still more hardship, and no less injustice. On the first pretence of a naval armament, † press-gangs are sent to carry away by force, not only the sailors of the merchant ships, but even the simple and peaceable citizens, who have never been in a ship: who have no desire to meet the dangers of the sea and of the enemy: and whom no authority on earth has a right to compel to encounter them. The insignificance of complaints made of this act

* The security of *personal liberty* in England does not consist, and cannot consist, in being never for a moment violated by a fraud on the law: no human institution, perhaps, can guard against such fraud, without giving too much encouragement to private fraud of another kind: but our security consists in this; that any restraint laid upon him, under colour of law, may be immediately removed by proper steps, and the question put in a course of fair discussion and decision by law.

† This has always been considered as a case only justified by the absolute necessity of the measure for the public safety.

of violence, proves that the English constitution does not sufficiently secure the liberty of men.

One of the adversaries of this constitution goes so far as to say, that the freedom of the press is violated in England; and he instances the imprisonment of Mr. Wilkes, for no other apparent cause, but his being accused of *having printed in his house* a book which was not published.

In enumerating the vices of the English constitution, its detractors forget not the inequality of the representation: they cite, as instances, some considerable towns, such as * Sheffield, Birmingham, and Manchester, which do not send representatives to parliament, while some mere hamlets furnish the state with two legislators.

In fine, the power which the king has of † pro-

* It has been often remarked that none of those places ever petitioned the house to give them representatives by an act of parliament, at the times when a reform of parliament has been repeatedly in discussion.

† If the king had not this power of proroguing and dissolving, parliament would for the term of its duration be wholly independent both of the king and the people. The only parliament we ever had independent of the crown, in the reign of Charles I. ended in the rebellion, the murder of the king, and the subversion of the monarchy, the aristocracy, and the church. The sovereign power may be bounded, and limited, by different controuls in different branches; but there must not be *two independent sovereigns*. They have tried the experiment in France; and it seems obvious to foresee, that one will certainly in the end destroy the other; though it may not be so clear, which will predominate.

roguing

roguing and dissolving the parliament at pleasure ; and the ascendancy which the means he possesses of corruption gives him over the legislative body, seem monstrosities in the government, which appeared so perfect to Montesquieu ; and of which M. de Lolme has endeavoured to give the world so exalted an idea.

As a proof how easy it is to him who is actuated by a spirit of censure, to asperse the best institutions, an author much celebrated for his knowledge and his patriotic sentiments, M. de Condorcet, after having done homage to the criminal code of England, pretends that, if the execrable edicts of which it is composed, are not at present carried into execution, it is that *there, as well as elsewhere, judges, who are not destitute of humanity, rather chuse to elude the laws by subtilties, than to slaughter their fellow creatures by their means.* He supports this assertion by * two cases, which I shall relate, because they may convey useful instruction to judges, who ought to serve as guides to juries.

A catholic priest was accused of having said mass; he was prosecuted in the court of King's Bench, where many witnesses appeared against him, and Lord Mansfield sat as judge. “ You are very sure, “ said his Lordship to the principal evidence, that “ this man is a popish priest, and that he has said

* I do not know the authority for these two cases.

“ mass ?”

“ mafs ?” The witness having answered in the affirmative, the judge replied, “ You know then “ what mafs is ?” The witness appeared troubled, and could not answer. Lord Mansfield then addressing himself to the jury, said, “ For declaring “ this man guilty, you must have complete proof “ that he has celebrated mafs ; and that it be de- “ monstrated to you that it was the mafs this man “ did celebrate, when the witnesses saw him per- “ form the acts which they took for the mafs. See “ that your consciences are entirely satisfied on “ this point.” The jurors demanded of the witnesses, and demanded of themselves, what were the ceremonies which constitute mafs ; and not being able to obtain one satisfactory answer, they saw that the offence was not proved, and declared the prisoner *not guilty*.

• The second affair is of a more singular nature. It demonstrates the happy ascendancy of a good mind over the opinions of the vulgar, and does equal honour to the humanity and the wisdom of the same judge.

He was, upon his circuit, holding the assizes in a certain county, when an old woman, accused of being a witch, was brought before him for trial. The inhabitants of the place were much irritated against her ; and the witnesses deposed, that they had seen her marching in the air, with her head downward, and her heels upward. Lord Mansfield calmly

ly

ly attended to the accusation and the evidence ; and seeing the temper of the people, whom he was not willing to irritate, he said to the court, “ I “ doubt not that this woman has traversed the air “ with her head downwards, and her heels upwards, “ because these witnesses have seen her ; but she “ has the honour of being an English subject, as “ you and I are ; consequently she cannot be judg- “ ed but by the laws of the country, neither con- “ demned, but in as much as she has violated them. “ I know of no law which forbids any person walk- “ ing in the air with the head below and the heels “ on high : each of us may do the same with im- “ punity, therefore I see no reason for proceeding “ against the prisoner.” This discourse calmed every mind, and the old woman departed without molestation.

M. de Condorcet concludes from these two facts, that the liberty and security of individuals, have not in the English laws so solid a foundation as is commonly supposed, since they depend in a great measure on the personal qualities of the administrators of justice ; and particularly on their greater or lesser aptitude to elude the applications of the law.

The same author contests with the English the honour of the invention of * juries. “ The judg-

* Some trace or other of the principle from whence sprang our trial by jury, is, I believe, to be discovered in all the ancient German constitutions.

“ment by peers, or jurors, (says he,) existed here-
 “before in France as it exists in England. It is
 “the mode of trial of a court martial in all armies,
 “and this usage was preserved in some classes of
 “citizens. The peers of the kingdom could be
 “tried only in the court of peers; the counsellors
 “of the parliaments in each province could only
 “be tried by their colleagues.”

The adversaries of the English constitution confound its abuses with its vices, in attributing to the class of its imperfections the defect of † police on their roads which expose travellers to be attacked by robbers who make a trade a profession of theft, and engage in it the more because they know there

† Perhaps there is no country, where there are better regulations to enforce the police in this respect. Between sun and sun the county, as is well known, is bound to the protection of the traveller, and must make good his losses by robbery, if he raises hue and cry by giving notice at the first town. If the traveller chuses the night for his journey, he incurs a voluntary risk; but to stimulate all persons to be alert in assisting him to pursue the robber, there is a reward of 40*l.* for the apprehension, to be paid on the conviction of the offender. Around the metropolis the roads are all lighted, watched, and patroled; but it is impossible to extend these precautions throughout the kingdom. Our constitution is only in fault here, inasmuch as it is a free constitution, and will not suffer a man, who has the appearance of being able to maintain himself, to be stopped, questioned, and confined or punished, on mere suspicion, before he has committed some open breach of the law.

is no inclination to expose life for defending the gold they demand.

One of the vices which shocks us the most, and which appears to be the vice of the nation, rather than of some individuals, is the depravity shewn at their elections, where the populace publicly sell their suffrages. It is in the midst of riots, cabals, bloody battles, and all the tumult of drunkenness, that those men are elected, who are to defend the public liberty against the enterprizes of a monarch or a minister, possessing a thousand means of corrupting those who at first seem disposed to act like citizens.

If those vices which crowd in the train of opulence ;—vices which stifle public spirit, annihilate morality, and give to a people the bold aspect of impudence, did not render the precepts of wisdom useless to the English, the * French should say
to

* An Englishman might perhaps think that if the French nation should so address us, they would give a satisfactory proof of having among them at least some of *those vices which give to a people the bold aspect of impudence*. Many of the topics of reproach to England, do in truth point in strong but sombre colours, to the actual state of France ; while most of the topics of preference in favour of France are decked out in all the gaudy tints of the ideal future. When these beautiful prospects are positively realized, it will be time enough for French moderation, virtue, and modesty, to shame English licentiousness, immorality, and imprudence, out of countenance. In the mean while it may be sufficient generally to re-
mark

to them. “ Liberty was in the midst of you, but
 “ you have made her fly your island, because her
 “ only delight is to be surrounded by the virtues.
 “ It was glorious heretofore to represent you ; but
 “ since your suffrages are to be purchased by in-
 “ trigue and gold, the title of your representative
 “ is a title of disgrace.

“ You have substituted licentiousness instead of
 “ a noble exertion of talents and the faculties of
 “ the mind. Truth is not the object of those
 “ writings for which you demand an unlimited pri-
 “ vilege of publishing your thoughts. Invectives,
 “ and unjust declamations, are what give vogue
 “ to those prints which are to you what inflaming
 “ liquors are to savages. You will have a king,
 “ but it is frequently for insulting and defying
 “ his power ; and you have enfeebled and limited
 “ his means of making the law respected, less for
 “ the purpose of sheltering yourselves from tyranny,
 “ than that you may indulge with impunity in all
 “ manner of excesses.

mark the spirit which breathes through this passage : it does not tend to excite a laudable generous emulation between the two countries, but to goad this country with a degrading, insulting, and provoking comparison ; it considers them not as two amicable competitors for true glory, but as hostile rivals for dominion in arts and arms. Are these the first fruits of the new French system of universal peace ?

“ You

“ You desire war, not for giving proof of your
“ courage, since you commence by employing all
“ those means which betray imbecility, but it is
“ for an opportunity of committing depredations
“ on the sea, and conquering the means of pursu-
“ ing your debauchery. You entertain an info-
“ lent contempt for other nations, but is it true that
“ you have a decided superiority over them, in the
“ arts, in war, or in the productions of genius?
“ The sight of an army disembarked upon your
“ coasts would strike you with terror : you would
“ neither know how to defend your liberty, your
“ lives, or your parliament, against fifty thousand
“ men, who should advance in good order towards
“ your spacious city. Have your academies, your
“ theatres, conferred upon you the empire of ge-
“ nius and taste ? If you possess not a pre-emi-
“ nence in talents nor in valour, from whence comes
“ this savage pride, this insulting disdain for every
“ thing which is not English ? Imperfect as your
“ constitution is become by your vices, it is still
“ without doubt the best of all constitutions, but
“ you are on the point of losing this advantage over
“ us : our legislatures will be preferable to your
“ parliaments, because the division of our depart-
“ ments will ensure a more equal representation
“ than your’s. We shall not have like you, here-
“ ditary legislators, or legislators whose power will
“ continue for the course of seven years ; and our
“ judges

“ judges will only be immoveable while their justice is invariable. Elected out of an enlightened class, and by the free choice of the nation, they will not be the instruments of a minister’s secret vengeance ; and justice will be gratuitous among us, while with you it is the ruin of the complainant. Our civil code will be clear, and its forms simple, while those of your’s are intricate, and offer a thousand retreats to knavery.

“ Our penal code will be inspired by humanity, our punishments will be gradations on the scale of equity, while yours have still all the confusion of barbarity. Men will exclaim in reading the collection of your criminal laws that they have been drawn up by those who delighted only in blood ; and that the people who make such account of liberty, hold the lives of other men as nothing.

“ Montesquieu has done you too much honour in his chapter on suicide : your own judge Blackstone has been more just : men, when they are satiated with existence, forsake not life with impunity, in your island : those who are hurried by gloomy vapours to abridge their days, escape not an ignominious sepulchre, nor their widows the confiscation of their property, but by the flumber of the law, which also among us shuts its eyes on the same act of weakness.

“ Your

“ Your hospitals are better managed than our’s :
“ your roads better kept up : your succours more
“ abundantly afforded to indigence : your farms
“ wisely leased out for longer terms. But when all
“ our municipalities are organized ; when the
“ spirit of rivalry has given place to a general
“ accord for the public weal, we shall not yield
“ to you in humanity, nor in the encouragement
“ of agriculture ; our roads will be better secured
“ than yours, and property protected against va-
“ gabonds by an armed force ; and our commerce
“ will not be submitted to all those shackles with
“ which you have loaded yours.

“ We shall have no occasion to apply, for the
“ division of property, to an agrarian law, which
“ would spread terror and injustice throughout the
“ kingdom : we shall content ourselves with seeing
“ it establish itself insensibly, while we main-
“ tain equality in the divisions, encourage the pur-
“ chasing of the possessions which heretofore re-
“ mained inalienable in the hands of the clergy,
“ and excite the communities to distribute these
“ domains among good husbandmen in such a man-
“ ner that they may with facility pay the purchase
“ of them to the state, and thus will the plains be
“ inhabited only by honest proprietors, instead of
“ being people by day-labourers.”

Aided by these charming ideas, the imagination
of Frenchmen plunges securely into the future ;
beholds the clouds which cast a gloom over the pre-

sent dissipate ; and triumphs over the terrors, the melancholy predictions, which timid or malevolent spirits cease not to spread around them.

Before I bid adieu to England, I shall take a passing view of her * political situation with respect to the other powers of Europe.

She has for a long while enjoyed in a manner the empire over Portugal, by appropriating to herself almost exclusively the commerce of that kingdom, and a great part of the gold of the Brazils. But though the alliance of Great Britain is of utility to the court of Lisbon, this latter power has at length perceived the dependence in which it is held by the former, and appears disposed to emancipate itself from the yoke ;—in spite of all the efforts of the court of St. James's, Portugal seems not far distant from an union with Spain.

*The English politician will probably differ a little from our author in the following speculations. They are however, sufficiently founded in fact, if we consider them as the speculations of a Frenchman, not yet wholly purged by sufficient doses of the new constitution, from the ancient and (I believe, I may add) inextinguishable jealousy and enmity of the two countries, towards each other. While their interests clash in every quarter of the globe, causes of dissensions must perpetually arise : and they must remain natural enemies, because they are natural rivals. They can only be made friends by the measures which France seems to be taking in the ruin of her finances, and the destruction of her trade and colonies. With such feelings on each side, the conclusions from the same facts, probably will, and perhaps ought to be widely distant. He who does not look with eyes of favour on the cause of his own country, may think himself a good citizen of the world, but I am sure he is a bad citizen of that community to which he more immediately belongs.

Eng-

England has no affection for Holland. She has given many severe blows to its East-India trade; and she has the double advantage over that republic, of a superior naval force, and a more enterprising activity. She has succeeded in making Holland enter into an alliance with her, against the will of the Hollanders, whose attachment to the French she found means, even while they were in alliance with France, of rendering useless by her ascendancy over the Stadtholder. At this period she is more assured through the same means of obtaining the aid of the republic, than the French can be of reuniting it to their interest: and if the latter nation should seriously enter into a war with Great Britain, its fleets will have to combat the ships of a state, which it has for some years preserved from absolute ruin.

Sweden is now the ally of England, rather than of France: and perhaps the latter has reason to reproach herself for having suffered her rival to obtain additional strength from the union of a power which the French so long supported with their subsidies; to which they gave too much money for maintaining a division among its states; and which they abandoned when it was their interest to have disputed with Russia the empire of the Baltic sea. For this, however, the French ministry might be able to indemnify themselves, by detaching Denmark from an alliance with England, if the policy of courts still subsisted among them.

Russia is also among the powers with which Eng-

land has had the art of uniting herself by an advantageous treaty of commerce ; one of the articles of which was, that the court of Petersburg should clothe its troops entirely with English cloth. But now that Russia seeks to have ports, and a marine force, on the Black sea ; that she has conceived the hope of monopolizing the trade of Constantinople, and the Mediterranean, and that she appears to have formed more extensive schemes for a trade with India, Great Britain seems to declare herself more openly for the Turk, and is desirous of stopping those designs of conquests, which would in their consequences prove more injurious to her than her alliance with Russia could ever be beneficial. What must be the result of these political steps of the cabinet of * St. James's ?—That England will insensibly gain the affections of the Porte, and hinder the French from deriving any advantage from their ancient alliance with the Turks ; while the French, on their parts, from forbearing to favour Russia, can obtain no return from that power, for what they lose on the side of that which she oppresses. The neutrality which they have observed, makes them appear in the eyes of Europe as inactive allies, with whom the powers are consequently in-

* From the issue of our late armed negotiation, it seems more than probable that the author's predictions are very far indeed from their accomplishment. It is not possible that the article agreeing to abandon the Turks to the fortune of war, if they refused to accept the very terms which we had interfered to resist, can have much conciliated their affections.

different

different about forming any connection, unless by treaties of commerce, the balance of which is in their own favour.

The two crowns to which England is most hostile are those of Spain and France. If she could once disunite them, and draw one of the two over to her side in opposition to the other, there would be nothing above her policy, or her power.

An opportunity at this moment offers for attempting this project. If England should attack Spain with her forces, seconded by those of Holland, how can Spain, too weak to make resistance with her single marine, support the efforts of two such enemies? If the French suffer her to be overpowered without going to her assistance, what right can they have to expect succour, when they shall be attacked in turn? What confidence will be placed in their treaties, if those which the most evident policy, and * the ties of blood, have induced them to form, are considered as nothing.

Such are the reflections which I thought it my duty to offer, because they naturally arose out of my subject. But I shall be asked how the French can at this time expose themselves to the immense expence of a naval war, while they are still crushed under the charges of the last in which they were engaged? I reply that they ought to do every thing that depends on

* What have the nation to do, according to the rights of men, with the ties of blood between two individuals who happen to be the first citizens among their respective fellows?

them to avoid such an event : that they should urge Spain to grant to England all the satisfaction which she has a right to require ; engage the latter not to demand more than is her due ; and even persuade her to make some sacrifices to the love of peace. But they should afterwards notify to this power, if she pays no regard to their mediation, that they will not abandon their ally ; and in consequence employ their utmost force in her favour, that astonished Europe may see what France is, when she has recovered the use of all her faculties. *

A war, thus begun, would have nothing in it terrifying to the French. They would then break a treaty of commerce, the disadvantages of which they have too long experienced ; and by conducting affairs with more order and œconomy, more providence and general union, than in the last war, the combined fleets might dispute the victory with those of England and Holland, whenever they should encounter them together, and wherever they were found detached, the advantage must be in their favour.

France would have no more apprehension on the score of supplying with provisions the troops with which it would be necessary to guard her colonies ; they would draw from the United States of America what could not be furnished by their own ports ; and having no longer any thing in India to de-

* It must not be forgotten (says M. de la Croix) that this discourse preceded, by some months, the decree of the national assembly relative to the alliance of France with Spain.

send, they would have nothing to lose, and all to gain, in that quarter ; while their privateers, encouraged by the hopes of making prizes of the Dutch vessels, and of entering honourably into the royal fleets, would run the career of glory and of fortune.

England, in the mean time, deprived of the money of France, and obliged to divide her forces into all parts of the universe, would soon find herself exhausted ; and her ally, fearing to see her territories become the seat of a land-war, would furnish with regret the succours which she expected rather to receive, and perhaps the stadtholder, menaced with a revolution in the provinces, would lose the ascendancy which he obtained in consequence of French irresolution. The event of these concurring circumstances would be a peace, more glorious to France than any she has yet concluded, and which would forever insure to her both honour and repose, on the side of Great Britain. Such is the perspective which that nation may look to, without being visionary in their expectations, since they are founded on sound political ideas.

Notwithstanding these just hopes, I am very far from forming wishes for war. I should rather desire that the French might be tranquil spectators of the divisions which agitate Europe ; and that they should take no part in the combats which ensanguine the North. But I persist in saying that the consequence must be fatal to her of suffering the forces of Spain to be destroyed, and England

to aggrandize herself by their mines ; because she would then acquire a preponderance so decided upon the ocean, that France would be compelled either to abandon all her colonial possessions, or only reign there under the laws dictated by England.

In this account of the English constitution, I have endeavoured to omit nothing of importance. I have made known her public law ; her private legislation ; her regulations ; her police ; and her connexions with foreign powers. In speaking of her constitution I have held the balance of equity. I have placed on one side all that exists in favour of her government ; and on the other all that has been remarked by its censurers.

I might have enlarged upon her commerce, and on her India company, but these details did not essentially belong to my subject. I shall content myself with saying, that there are in England many commercial companies, authorized by * letters patent, which have made to government advances and loans so considerable that it cannot reimburse them : a circumstance by which it is frequently exposed to receive laws from these companies, who are in the same situation with respect to government as a † creditor is to a debtor, who is not in a condition to acquit his engagement.

The

* Most of them, if not all, I believe, are established, confirmed, or in some way recognized by acts of parliament.

† This is by no means true. Many of these companies, it is certain

The principal of those is the company of the bank, which has the privilege of lending on government security, and of discounting bills and letters of exchange of private persons. This bank is the treasury of all merchants and bankers who chuse to deposit their money in it, and a trade is carried on by the company in unwrought gold and silver. But its greatest † profit is derived from advancing money to government on the land-tax. All bills issued from this bank are payable at sight; but as the fortunes of many rich individuals are placed here, the money passes only from the hand

certain are so inwoven into the system of our actual government; and are in themselves so necessary to carry on with effect the purposes for which they were instituted; that no minister will rashly put an end to them; but there is no doubt, that our circumstances at this moment are such as to allow us to reimburse almost, if not all of them, if we thought proper. They formerly advanced certain loans to government on easier terms than money could be then elsewhere procured. Public loans could be now raised on the same or nearly the same terms to replace those old debts, were such a measure in itself thought expedient.

‡ The bank has also an allowance for the management of the public debt; which allowance has been lately reduced. It gets also by buying up navy and victualling bills, which bear interest, and other similar securities of the same public kind, as well as by discounting occasionally good private bills. This is done with the money of the nation, or individuals, lying in their hands. About ten thousand pounds a year may be demonstrated to be thus made by the bank on the payment of the surplus million annually, from the manner in which the money is advanced to the bank from the exchequer, and the mode of applying it by equal instalments in the purchase of stock.

of

of one accountant to another, without going out of the treasury.

It cannot be denied that the institution of this bank has been of the greatest utility to England ; it trebles its specie, and supports the exchange to great advantage. The French had in their *caisse d'escompte* an establishment which was no less solid, and whose credit would never have been disturbed if it had not been so much abused by government ; or if the ministers had known how to support it, by pouring into its treasury all the specie received in payment of the taxes, and all that was coined, as an indemnification for the expence of importing unwrought gold and silver ; and by drawing only bills from thence, without limiting the rate of its discount, or interfering in its dividends. By those daily supplies of cash, the *caisse d'escompte* would have possessed the means of making its payment in open office, which would have inspired confidence, and persuaded the world that the payment of the bills in circulation was secured by an inexhaustible fund of treasure.

The English East-India company pay an interest of only three per cent. * upon their bonds, yet moderate as this interest appears, those bonds are much sought after, because they are payable at six months date, and to the bearer, without any occasion for fresh bonds. And as the interest is always going

* India bonds bear an interest of *four* per cent. subject however to reduction on six months notice from the directors.

on, they are considered as money which increases while in your pocket-book. The company receives them in payments at their sales, which are held twice a year.

If all that I have said upon the government of England, its police, and the manners of the inhabitants, be considered, I believe it will be allowed that it is not among these islanders that men must seek for true liberty†: for that wise equality of the rights
of

† It is the happiness of Englishmen to enjoy that rational liberty which gains permanence by being associated with order; and which finds security from oppression, and restraint from no less dangerous licentiousness in a firm code of well digested laws.

The opinion unfortunately entertained by many of the French speculators in government, and here avowed by M. de la Croix, that true liberty does not exist among the people of this island, has proved the bane of their distracted country. The ancient constitution of France was similar, in most of the essential points, to the ancient constitution of England; and though long suspended, it was not destroyed.

When the States General were assembled in 1789, it should have been their grand object to fix, confirm, and establish, this constitution, revived by the act of the monarch himself. It was at that crisis in the power of the states, convened expressly for the purpose of arranging the finances, to secure to themselves the holding of the public purse; and by that means to render the repetition and perpetuity of their assembling indispensable.

They might also by some law upon the plan of our *babeas corpus* act, have opened their state prisons to the inspection of justice, and thus forever have deprived them of all danger. What nobler monument could have been erected to liberty than a vacant Bastille? Like the tower of London it would have remained to future ages
a glo-

of men ; that real participation of all the citizens in the legislative power ; that privilege of rising, by merit

a glorious trophy of the overthrow of despotism by the power of the law.

After establishing these fundamental points, which constitute in fact the basis of civil liberty, the states might, like the parliament of this nation, have modelled their own internal constitution ; the constitution of the executive, administrative, and judicial powers of the country, if any modification had been found expedient : but a rage for still more than American democracy and equality, though neither was compatible with their situation, had seized the minds of many of those theoretical reformers who were among the popular leaders of France. Their cabals were carried on at the house of the American minister, Mr. Jefferson ; their chief instructors were those Americans, or those English admirers of American institutions, whose doctrines were decidedly in favour of republicanism ; and with those were mingled such as, for the purposes of their own ambition, were desperate enough to employ the most covert means of overturning the existing government, in hopes that their own power might be raised upon its ruins. On the other hand, the natural strength of the aristocracy was enfeebled, and divided, by the party who felt, or affected to feel, a weak and silly admiration, not of the principles, but for the modes, and forms, of the British constitution. These were Messrs. Lally-Tolendal, Clermont-Tonnerre, and Mounier ; with many others who were among those generally esteemed for their abilities and integrity.

It was of consequence for the more democratic party to have those persons with them : they were therefore flattered with the expectation of a government similar to that of Great Britain : and a majority of them, united with a small number of the democratic faction, formed the first committee of constitution, in which a speculative plan, conformable to their ideas, was prepared. But as soon as the credit of these men with the public, had established the belief that a revolution was expedient, the purpose of introducing them

merit and by virtue only, to all ranks, to all dignities; those laws which protect all individuals without distinction of titles or persons; that absolute security of property, by means of a police watchful without being oppressive; that full toleration which authorizes every man to render to the deity the worship which he believes most worthy of the divine power; and that public spirit which makes of all the citizens so many agents of admi-

them into the committee was accomplished; and their removal was in consequence determined on. Means were soon found to drive them from the national assembly: their places in the committee were filled by members of the opposite faction; and, agreeable to their principles, yet admitting a mock appearance of monarchical government, in order to impose upon such persons as still remained attached to that form, an incongruous union of tyrannical democracy and impotent royalty, was devised, without the intervention of any mediate power, like that of the house of lords in England, and of the senate in America, to regulate their contending interests, and prevent the one from preponderating by the force of numbers, or the other through the means of corruption.

The consequences of this strange experiment have proved exactly what were looked for by all sober politicians; and France is at this moment, near three years from the revolution, involved in all those calamities which must inevitably ensue, when the executive power is destitute of authority to give full effect to the laws; and when the multitude are disengaged from that necessary subordination on which the peace, the order, the very existence of a state depend.

If nothing short of that licentiousness *enjoyed* by men in such a situation, deserves the name of liberty, may the subjects of Great Britain remain for ever unacquainted with it.

nistration, and so many confederates leagued for the prosperity of the state.

But where shall we find a nation which presents to our view this beautiful image, this perfect accord? We have been taught to hope that they may be found in a country separated from Europe by a vast extent of ocean; among a people whom the French have assisted to break their chains. We will approach them; we will contemplate them without partiality: but in order to observe them with a calmer and more attentive eye, we will suffer to pass away the days which France requires from us for consolidating the work of her legislators; for assembling under the eyes of her august chief her double soldiery; and for binding all her children in one common cause by a solemn oath. Oh! may that oath be pronounced by all lips, and flow from the bottom of all hearts: may it dissipate all hatred; banish all fear; make the French indulgent to past errors; and recal among them their illustrious fugitives, by displaying to them a happy and peaceable sojourn, where they may come to reconcile themselves to those ideas which will soon cease to appear ungenial in their eyes.

C H A P. XXVI.

OF THE UNITED STATES OF AMERICA; THEIR
ORIGIN; AND THE EVENTS WHICH PRECEDED
THEIR CONSTITUTION.

HOW shall I ascend to the height of my subject? I am going to speak of a constitution created by a principle of independence, and a desire of equality : which was preceded by much experience of misfortunes, and iniquity; and which has been constituted in all its parts by the energy of virtue, and produced in an age of knowledge.

Before we examine whether this constitution merits all the applause it receives, let us observe by what a chain of events it has been established over that vast extent of country now submitted to its rule.

The united states have been formed in consequence of the vicinity, and the sameness of interest, which prevailed through the thirteen colonies that were successively established in the northern part of America.

Sir

Sir Walter Raleigh was in this part of that continent what Columbus was in the southern part, the true founder of the European establishments. He too, like his rival, was the object of persecution; and after languishing many years in the prisons of England, he finished his course by losing his head on a scaffold.

This navigator obtained from Queen Elizabeth a charter dated the 25th of March 1584, by which the sovereignty of all the countries of which he should take possession was granted to him and his heirs, as also the power of establishing there a government as much as possible like the government of England, *on condition of uniting the said country to Great Britain by the bonds of alliance and perfect amity.*

Furnished with this title Sir Walter embarked taking with him two ships, and took possession of all the country from the twenty fifth degree of latitude to the gulf of Saint Laurence: and, willing to make his court to a queen who had shewn an aversion for marriage, he gave to the lands of which he thus rendered himself sovereign the name of Virginia.

After Charles I. had been beheaded, the usurper Cromwell sent a squadron of ships of war against this colony which was not disposed to acknowledge any other chief but Charles II. and it was at this crisis

crisis that the Virginians committed a great fault in policy, by not taking advantage of a circumstance so favourable to the enforcing of their original charter, which would at once have established their sovereignty and absolute independence.

Such a procedure, no less just than daring, would not have offended Cromwell; for it was much more alarming to him to find the people of Virginia acknowledge in Charles the lawful hereditary heir of the throne, and offer him an asylum in their country, than if they had declared themselves wholly independent of England. The Virginians however, finding they were not sufficiently strong to repulse the force sent against them by the usurper, capitulated; and the following are the most important articles of the capitulation.

“ Virginia and its inhabitants shall be dependent
“ on the republic of England, not as a conquered
“ country; but like all countries which submit
“ voluntarily: and they shall enjoy the same privileges and franchises as the free people of England.
“ land.

“ The general assembly shall meet as before;
“ and shall direct the affairs of the colony.

“ Virginia shall possess and enjoy the whole extent of territory marked by its ancient limits, and
“ specified in the charters granted by preceding
“ kings. And the inhabitants of Virginia shall
“ have

“ Have every where and with all nations the same
“ liberty of commerce as the English.

“ Virginia shall be exempt from taxes, duties,
“ and imposts of all kinds. She shall not be sub-
“ jected to any charges, neither shall any forts or
“ castles be erected, nor troops be kept on foot
“ there, without the consent of the assem-
“ bly.”

This treaty was signed in Virginia on the 12th of March 1651, and afterwards ratified in England by Cromwell.

The parliament of England annulled, indeed, at the restoration of Charles II. all that had been done by Cromwell. If this treaty had been comprehended in the acts which were annulled, the inhabitants of Virginia must have been restored to their primitive right of absolute independence on England. If on the contrary the treaty remained in force, the Virginians ought, according to the 4th article, to have enjoyed the liberty of trading with all nations: and they could not, according to the fifth article, have had any tax imposed upon them, without the consent of their general assembly.

It is of consequence to attend to these two points, in order to be convinced of the injustice of the taxes which England sought to lay on all the colonies; and which, after producing the war of

1774, brought about the independence which they now enjoy.

I must however observe, that all the states of North America had neither the same origin nor the same titles as Virginia : many of them were founded on grants made to the companies of London and Plymouth.

The origin of Pennsylvania was very singular: it was founded by William Penn, to whom Charles II. granted a charter, of which the conditions were : That the king should have one fifth of the produce of all mines of gold and silver : that an annual tribute shall be paid to the crown : that the province should be called Pennsylvania : that the inhabitants should have an agent at the court of London, for the purpose of replying to any thing which might be alledged against them : and that in case of their not submitting to any sentence which might be pronounced, the monarch might resume the government, (but without prejudicing the property of individuals) until the people had made satisfaction.

By another article it was agreed, that the monarch could neither lay taxes nor impositions on the said province without the consent of the proprietor, or of the assembly of the province, or without an act of the parliament of England.

This last article, which was confined to Pennsylvania, weakened the cause of that province in the

last war; because the taxes imposed upon it were sanctioned by an act of parliament: but the Pennsylvanians affirmed that the treaty, made only between Penn and Charles II. was without their concurrence: and that in the convention between them and their governor there was no mention made of the supremacy of England. In fact, one of the articles of the treaty between Penn and the emigrants imports, that “the government, (that is
“the sovereignty), shall reside in the general assembly of the province; which shall consist of the
“governor, and the representatives of the free
“men; and that they shall make laws, impose
“taxes, and establish tribunals and offices.” It is also determined by the said treaty, that “all
“men who reside in the province, and who pay
“the taxes to government, shall be considered as
“free men, and enjoy the right of electing and
“being elected to all employments whatever. That
“whoever acknowledges one omnipotent God,
“shall not be disturbed on account of his religious
“principles in matters of faith or of worship, nor
“be prevented from maintaining or frequenting
“any ministry.” After this contract had been made between Penn and the inhabitants of England, who had attached themselves to him, they embarked for America, and established themselves in a canton of the province known by the name of Philadelphia.

The

The province of Pennsylvania was more rapidly inhabited than any of the other states of America, because its system of legislation appeared more wise. Besides, the Quakers, excluded from Virginia and all the other English colonies, were admitted, and exercised there those soft and peaceable virtues which characterize their sect.

But nothing contributed so much to people North America, as the religious wars of Europe. The emigration was so great in 1633, that it was taken into consideration, in the council of the king of England, whether it ought not to be forbidden; and it was effectually forbidden in 1637. But this prohibition served only to increase the desire of embarking for America, and men went thither from all parts of Europe.

Intolerance, so injurious to France, would have proved very beneficial to England, if she had known how to preserve her ascendancy over those men, who by taking refuge in the colonies with which she preserved the intercourse of commerce, did not wholly abandon their country. But the English, who believe themselves to be so superior in knowledge and policy, had not the art of nourishing that affection, which animates the heart of an emigrant for the state to which he owes his birth. Full of the idea of their own superiority they regarded with contempt the generation which extended itself beyond the ocean, and which had no

longer any thing in common with them but their language: and making an ill use of their power and opulence, they arrogated the right of directing the commerce of America; and of obliging the Americans to receive, from them alone, the articles they wanted, and to assign to no ports but theirs the produce of their industry. Many of the American states, influenced by habit, were persuaded that this rigorous law was really what the British ministry pretended,—a pact made reciprocally between them: and as such submitted to it without a murmur.

“ While these unjust pretensions (says the author of * *Recherche, sur les Etats-Unis*) affected only particular objects, the people protested against and disputed them, but they rather chose to suffer, than to come to a rupture with England; and it is difficult to say what might have happened, if the English ministers had continued to advance only step by step. The good star of the colonies had however decreed, that

* I have made all possible inquiry for this work, but I can find no publication either in French or English, either published in Europe or America, with which the quotations here given exactly tally.

If, as there is some reason to believe, the work of Mr. Jedidiah Morse, entitled, *A View of the present situation of the United States of America*, be the one alluded to by M. de la Croix, the passages marked as extracts are very far from being closely translated.

“ obstinacy

“ obstinacy should prevail over policy; the right
“ of Great Britain to tax the colonies was openly
“ asserted; and America had no alternative but
“ to separate herself from that country, or to fight
“ under the most shameful and oppressive fla-
“ very.”

It would hardly be believed to what an extent England carried despotism towards her colonies, if the acts of the British parliament did not furnish us with authentic proofs. They were forbidden to manufacture even the most necessary articles, in order to oblige them to import those articles from England. Even Lord Chatham, who vigourously opposed the taxing America, and afterwards the American war, expressed himself thus in the house of peers. “ But if the Americans should offer
“ to fabricate even the nail of a horse-shoe, I
“ would have them made to feel the whole weight
“ of the power of this country,” If the zealous defender of the colonies spoke thus, and was still accused of partiality for them, it is easy to judge how the minds of those men were disposed, who determined on a war with America! Yet the Americans nevertheless endured with patience all those shackles and tyrannical prohibitions.

It was not in this instance a chief, a monarch, oppressing his subjects, but one people oppressing another people: it was a nation, which boasts of its generosity, and of understanding the rights of

men, that was injuring the first privileges of nature! So true it is, that despotism is not only the malady of kings, but of all men, of all states, who have acquired an empire over others. As a proof however that the Americans had not formed any design of breaking the yoke, which they had the weakness to let England impose, they in the petitions which were addressed by them to the king, only desired to be restored to the situation in which they were immediately after the peace of 1763.

The English minister, infatuated by success, and by an opinion of his power, issued, without any regard to justice, the famous stamp-act; by which it was directed that no bills, bonds, or other writings of a similar kind, should be valid, unless on stamped paper, which had paid the stamp duty.

The publication of this act of the British parliament spread a general dissatisfaction through the American provinces; and the inhabitants formed associations for preventing the importation and use of British manufactures, until a repeal of the act had been obtained. The women entered with laudable zeal into this patriotic confederacy: some preferred the most ordinary cloathing to the finery they were wont to receive from England; while others abstained from tea, which was become a necessary of life: artists and workmen employed themselves in manufactures with which they were
unac-

unacquainted; and wool and flax, coarsely worked up into cloaths, obtained a higher value than the finest stuffs imported from England.

A nation animated with this public spirit, and armed with the strength of wisdom, might be expected to make all the resistance of which it was capable, if the violation of its rights was still persisted in; and yet it was not out of respect to this virtue that England had the honour of yielding, but to a base sentiment of interest. The clamours of those merchants, whose merchandize remained unconsumed, alarmed the government; and the enemies of the minister, mingling their complaints with the cries of disappointed interest, forced the parliament to repeal the act, after two years spent in fruitless efforts to enforce it.

This triumph of the colonies was but transient. In 1767 the English government devised a new means of procuring from the Americans what they had not been able to force from them by the stamp-act: they laid an additional tax on glass, lead, cotton, painters colours, paper, and tea, which were exported from Great Britain to America. This tax might appear less vexatious, because the Americans were not forced to take these articles; and that it might be considered only as an augmentation of price which the vender was at liberty to put upon his commodities: but in order to make this pretence just the Americans should have been

able to import from other parts of Europe, or to procure from their own soil, the articles thus additionally taxed: as that was not the case, it was considered as a direct impost laid on necessities, the same opposition was made on this occasion as had been made to the stamp-act; and they gained in consequence a second triumph in the year 1770, when, parliament passed an act by which all those duties were taken off, except three pence per pound on tea: even this duty was continued, as it was said, less for the sake of the tax, than to avoid the shame of desisting wholly from their plan: and in order to prove the truth of the assertion, the tax on tea was not insisted on for three years.

America might perhaps have remained forever dependent on England, if the latter, warned by the two checks which her schemes of usurpation experienced, had in future confined her sovereignty within proper bounds: but the evil genius of tyranny is always hurrying it into extremes: and in 1773 Great Britain thought proper to enforce the payment of the duty on tea with great rigour.

Upon this the indignation of the American provinces became general. Thanks were voted by some of the states to such masters of ships as refused to bring over cargoes of tea: and, in others, the merchants to whom tea was consigned, refused to receive it. Here, whoever dared to vend this taxed

ed

ed article was declared an enemy to his country: there, the same sentence was pronounced on those who even kept it in their store houses. And in many places the drinking of this beverage was solemnly renounced, and all that remained among them of those leaves, which had hitherto constituted one of their luxuries, were burnt.

Of the tea exported for this quarter of the globe; and which was valued at five or six millions, not a single chest was suffered to land: and at Boston, which was the principal theatre of this insurrection, the inhabitants destroyed in their port the cargoes of three ships which came freighted with tea from Europe.

The English minister, wishing to take revenge on some of the inhabitants of this important town, provoked the severity of parliament too hastily: “Moderate people (says the author who has written best on the American revolution) wished to have the guilty city punished only by being obliged to make amends for the waste committed in the harbour, and to pay such a fine as the neglect of not punishing that act of violence might be thought to merit. But this punishment was judged too lenient, and on the 13th of March 1774, a bill was passed for shutting the port of Boston, and forbidding both exportation and importation.”

The court of London glorified in these rigorous measures

measures; and made no doubt that they would bring the Bostonians to repent of their opposition, and to adopt that spirit of obedience with which England had sought to inspire them. But this was a fallacious expectation: the Americans only united themselves more closely with a town, which the state, that called itself *the mother country*, was endeavouring to oppress: and in all the districts of the colony, and even in the neighbouring colonies, the inhabitants took up arms and flew to the relief of Boston. “ A great number of
“ horses (says the author of *Recherches sur les Etats*
“ *Unis*) were seen to arrive, each bearing two, and
“ some three men: and there being a want of provisions, on account of the interruption which
“ agriculture had experienced, the supplies,
“ which consisted of private donations, were so
“ numerous, that plenty reigned there very speedily. The quantity of rice which was sent from
“ Carolina was prodigious: and in Virginia (adds
“ the same writer) I have frequently been a witness of solicitations to obtain stowage in some
“ vessel, for embarking white and Turkey corn.
“ The proprietors, who had already sent their
“ stores of provision on board, and destined them
“ for market in the islands, ordered the captains
“ of the ships to set sail for Boston; while others,
“ who were proprietors of small vessels, would
“ freight

“ freight them entirely on their own account, and
“ refused to have any partners in the expence.”

Thus we see that sovereigns commit every where the same faults; fall every where into the same errors; and that they all believe they shall be able to proceed with impunity from injustice to injustice, and from oppression to oppression. When they meet with resistance in a town, they imagine that by crushing it, all other towns will be struck with terror, and that it will remain alone and destitute of succour in the midst of the general apprehension. But its cause soon becomes the common cause: the inhabitants of the neighbouring towns, indignant at the fate to which it is destined, rouse with a generous enthusiasm in its defence: while the irritated oppressor, extending his vengeance to all parts of a country, whose inhabitants are all become his enemies, has no alternative but to destroy all, for subjugating all, or to humiliate himself before a nation to which he is no longer able to prescribe laws.

In the midst of this fermentation England had still at Boston a government and troops devoted to its orders. In the night of the 18th of April 1775 the commander of these troops sent a detachment to destroy a magazine of arms and ammunition formed by the Americans at Concord about twenty miles from Boston.

The

The detachment met with some militia in their way, which they easily dispersed, and rapidly continuing their march, executed their orders, by destroying some stores. But upon their return they were harraſſed without intermiſſion by the Americans, who fired upon them from houſes and fences, and purſued them till they reached Boſton; ſeveral being killed on both ſides*: and from that moment the flame of civil war burſt forth, and America was bathed with Engliſh blood.

The troubles which agitated the province (Maſſachuſetts) of which Boſton was the capital, were rapidly propagated, and the Americans poſſeſſed themſelves wherever they could of forts, ammunition, and arms.

The different ſtates in which there were ſeparate committees, named representatives to form a *congreſs*, which opened its firſt ſeſſion at Philadelphia †.

This congreſs directed all the buſineſs of the war; and though each colony named the officers of its own regiments, it was the congreſs that appointed the generals; and by them George Waſhington, deputy of Virginia, was unaniſmouſly elected commander in chief of the troops of the united

* The Engliſh loſt on this occaſion, in killed, wounded, and priſoners, two hundred and ſeventy three men.

† On the 26th of October 1764.

colonies. This officer had given proofs of great military talents and virtues in the war of 1756 : the commission which was granted him by congress was conceived in the most honourable terms ; and since the peace, as well as during the course of the war, he has justified the opinion which was entertained of his nobleness of soul.

The virtues of this great man have undoubtedly contributed not a little to combine all those, which the French so much admire, in one of his companions in arms. The author of *Recherches sur les Etats-Unis*, who is a citizen of Virginia, could not possibly foresee when he composed his work that M. de la Fayette would play in France the part to which his happy destiny has called him : his eulogy could therefore be dictated by nothing but the spirit of truth, and for that reason I think it ought to be transcribed.

“ The character of the Marquis de la Fayette
“ (says that historian) is established in America on
“ a foundation which the most subtle malign can
“ never shake : there is not a single anecdote of
“ his life, which does not please us in the recol-
“ lection, and increase our respect. I have already
“ observed that his courage, which never fails, is
“ still less striking than his prudence in command :
“ and that it is not his military merit that renders
“ him most dear to us. The only doubt we can
“ entertain respecting him is, whether he appears
“ most

“ most great by his wisdom or his humanity,
 “ Amidst so many proofs of the latter virtue, his
 “ deliverance of an English officer, Captain But-
 “ ler, must not be forgotten. This incident serves
 “ at the same time to expose the pitiful deceit of
 “ Arnold, who since his treason has pretended to
 “ say, that for a long time he felt regret at shed-
 “ ding the blood of the English. The Marquis
 “ de la Fayette arrived in the camp at Albany, in
 “ the moment when Arnold was preparing to send
 “ Butler to execution. He was certainly guilty ;
 “ but the Marquis finding that his trial had been
 “ irregular, took advantage of that pretence, and
 “ the deliverance of Butler was his first act of com-
 “ mand.”

The same writer inspires a grand idea of his
 country, by adding, “ That propensity to suspect
 “ blemishes in men destined by nature to do ho-
 “ nour to human kind, is happily unknown in
 “ America : the praises bestowed on merit wounds
 “ no person there, nor does envy ever lie in am-
 “ bush, to spy out its victims. General Washing-
 “ ton and the Marquis de la Fayette have nothing
 “ to fear among us.”

If there is no exaggeration in this eulogy, it
 must be acknowledged that the French are still
 greatly inferior to the people of North America :
 envy is by no means banished from their region,
 but is seen every day watching the steps of good
 and

and honest patriots ; and without even waiting until they commit some trifling fault, or fall into some pardonable error, she empoisons their intentions, and calumniates their proceedings. They are the butt of her darts, of her detestable whispers ; and for no other reason but because they excite, and receive flattering assurances of public gratitude. How often do we in France behold men like the Athenian, who voted for the banishment of Aristides, because he was hurt at hearing him called *the Just*.

It does not fall within my plan to describe the military operations by which the chains of America were broken : I shall only remark one important circumstance : it is, that England could not subdue the Americans by all the victories they gained in the course of a long war ; and that the Americans, by only two successful actions, that of Saratoga, against General Burgoyne ; and that of York town, against Lord Cornwallis, compelled the enemy to relinquish all idea of sovereignty. This demonstrates that oppression must be always victorious to support its despotic power ; while, on the contrary, liberty gains more by one single victory, than she loses by a thousand defeats. She is like a torrent which is compelled to take a retrograde course ; and which, if it brakes but one single bank of those which are raised to oppose it, acquires such impetuosity as soon to bear down all the others ;
and

and the work which had been completed with so much expence and trouble, must be all begun anew.

Another circumstance, no less worthy of remark, is the fund of wisdom and virtue, which existed in the executive and legislative powers, and in the body of the nation, during the struggle between the United States and England, before the republican governments were created. Eighteen months had scarcely elapsed from the time of General Washington being appointed commander in chief before it was found necessary to extend his power. The congress granted him all the authority of a dictator, and the use which he made of it was such, that the greater part of the Americans are still ignorant of its having ever been in his possession.

The power of the congress, of the assemblies, and of the committees was without any limits; and yet never was authority exercised with more paternal gentleness: the simple recommendation of any measure was sufficient to insure universal obedience, and the only punishment ever inflicted on those who departed from their duty, was the publishing their fault: a punishment which was severe in its effect, because the culprit was excluded by it from society.

In places where there were no tribunals, the point of honour acted more powerfully than any sentence: no debtor deferred payment, until importuned

portuned by his creditor ; and where courts of justice still continued open, the moderation of creditors rendered them useless.

These are circumstances which do honour to a nation, and render men worthy of conquest and of freedom. What a lesson do they present to the French legislators ! How strongly do they inculcate this truth, that it is neither by punishments, by imprisonments, nor by seizing their effects, that men can be led into the paths of justice and probity !

The constitution of the American states was like that of France, preceded by a declaration of the rights of man*, the principal articles of which it
may

* It is truly astonishing that a man in general so well informed, and so much a master of the subject he writes upon, as M. de la Croix, should have fallen into so material an error as that of supposing that the American constitution was preceded by a declaration of the rights of man.

On the meeting of congress in October 1774, their first act was indeed to publish a declaration : but it was a declaration of the right of Americans to enjoy all the rights of British subjects ; and in no respect a declaration of the rights of man.

A second declaration was published by congress in July 1776 ; but this is so far from being a declaration of the rights of man, that its avowed intention was to explain the causes which had induced the Americans to withdraw their allegiance from the king of England. (For this declaration, and all the other state papers necessary to a perfect knowledge of the American constitution, as it was originally formed, and as it now stands, see the Appendix.)

may not be useless to consider, and compare with those which form the basis of the French government.

The first article is thus expressed :

When the different states came to form each for itself a separate constitution, agreeable to the powers reserved to them in the articles of confederation and perpetual union, a declaration of the rights of man formed the basis of six of them, viz. Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, and South Carolina : and it is from those that M. de la Croix has extracted the articles given as extracts from the American declaration of the rights of man.

That these declarations of rights of the several states were never considered by the Americans themselves in the light they are here taken by M. de la Croix, is evident from the celebrated debate which took place in the convention of the people of the state of Pennsylvania, on the 26th of November 1787, on the expediency of accepting or refusing the new constitution proposed for their acceptance, by the general convention of delegates from twelve of the Thirteen United States. The principal speakers against its acceptance were Messrs. Smilie, Whitehill, and Findley ; and one of these gentlemen, I cannot at this moment recollect which of them, expressed himself to this effect on the point I have been speaking of : “ There is no declaration of rights in this new
“ constitution offered for our acceptance : and as the laws of the
“ general government are paramount to the laws and constitutions
“ of the several states, the declarations of rights in the constitu-
“ tions of these several states are no security ; they cannot secure
“ to us even the enjoyment of the benefits of the common law.

The constitution of Virginia, and the declaration of rights included in it, from whence M. de la Croix has made his extracts, were existing long before this debate on the new constitution took place.

All

“ All men are born equally free and independ-
“ ent; and possess certain natural, inherent, and
“ unalienable rights, among which are, the enjoy-
“ ing and defending life and liberty; acquiring,
“ possessing, and protecting property; and pursuing
“ and obtaining happiness and safety.”

The sense of this article appears more clear and more within general comprehension than that which the French have adopted: men cannot be *born and remain equal in rights*: for where even the son of the king is born with a right to the crown which others have not, there must be a difference in the rights conveyed by birth.

Is there not likewise danger in establishing it as a principle, that *men remain equal in rights*, and afterwards refusing to one the right of election, and to another the right of representation?

We will now pass to the second article.

“ All power residing originally in the people;
“ and being derived from them, the several magi-
“ strates and officers of government, vested with
“ authority, whether legislative, executive, or ju-
“ dicial, are their substitutes and agents, and are
“ at all times accountable to them.”

Let us compare this article with the third of the French declaration, which is,

“ The principle of all sovereignty resides essen-
“ tially in the nation: no body of men, no indivi-
“ dual,

“ dual, can exercise any authority which does not
 “ emanate expressly from thence.”

I think the second article of the American declaration preferable to the one I have now given, because it expresses the same idea with greater perspicuity. It comprehends also the fifteenth article of the French declaration, which is conceived in these terms : “ The society has a right to demand
 “ from all public agents an account of their administration.”. The American article has still another advantage over the two French articles : it makes it the duty of the agents of authority to render, at all times, an account of their operations, while the others only specify the right of the society to require such an account.

The third article is thus worded : “ Government
 “ is, or ought to be, instituted for the common
 “ protection, benefit, and security of the people of
 “ the nation.

“ Of all the diverse modes or forms of government,
 “ that is the best which procures for those who are
 “ governed by it the greatest degree of happiness
 “ and safety, and which is best secured against the
 “ danger of male-administration : whenever there-
 “ fore a government is found insufficient for producing that end, or that it acts in opposition to it,
 “ the majority of the community has an incontestible,
 “ inalienable, and imprescriptible right to reform,
 “ to

“ to change, or to abolish it, in the manner which
“ they judge most for the public advantage.”

This article has neither the same clearness, precision, or justness of the two first articles: it even implies contradiction. Is it because a system of law does not produce the end which ought to result from a good government, that the nation has a right to change it? In that case it is not in virtue of its will alone that the nation makes the change, but because the system was vicious. If, on the other hand, the nation needs no reason but its own will for being governed otherwise, and for adopting a new form of administration, it is useless to explain the circumstances under which this unalterable right may be exercised. This long article may therefore be reduced to these few words: *Every government being instituted for the good of all, whenever the majority of the people complain, the government should be changed according to the will of that majority, when its will has been fully ascertained.*

“ No man, or corporation, or association of men,
“ have any other title to obtain advantages or
“ particular and exclusive privileges, distinct from
“ those of the community, than what arises from
“ the consideration of services rendered to the pub-
“ lic; and this title being in nature neither here-
“ ditary nor transmissible to children, or descend-
“ ants, or relations by blood, the idea of a man
“ born a magistrate, lawgiver, or judge, is absurd
“ and unnatural.”

This article, so excellent in a republican state or in one where the crown is elective, could not be entirely adopted in the French constitution, but the principle has been adhered to as far as possible. It is certain that the French have too long had magistrates, intendants, ministers, and generals, who have been such by right of birth. To receive a monarch from the hands of nature is sufficient; all other administrators should be chosen from those citizens distinguished by public virtue; and be raised by the voice of the people to the right of governing them.

According to the fifteenth article, “ the legislative, executive, and supreme judicial powers of the state ought to be for ever distinct and separate: and, in order to prevent oppression in the members of the two first bodies, and to give to all an opportunity of sharing such important offices, those who fill them should at stated periods be reduced to a private condition, and mix again in the multitude from among whom they were originally taken; and the places thus vacated ought to be filled by others, by means of elections, frequently, certainly, and regularly made.”

These ideas, though not expressed in the French declaration of rights, are to be found in different articles of the French constitution, and seem to be its fundamental principles.

The sixth article runs thus,

“ The elections of the members who are to re-
 “ present

“ present the people should be freely made ; and
“ all men giving sufficient proof of a constant in-
“ terest for the general advantage of the commu-
“ nity, and of the attachment which arises from it,
“ should have a right of voting at such elections.”

This is another vague article. How can all the citizens of a state give proofs that they take a constant interest in the general welfare ? Who should dare to say to an inhabitant, *you have no right of suffrage here, for you have not proved your attachment to the society.*

In the seventh article it is declared, that

“ No part of a man’s property can be justly taken
“ from him, or applied to public uses, without
“ his consent, or that of his legal representatives :
“ nor are the people bound by any laws but such as
“ they have in like manner consented to for their
“ common good.”

We find two distinct points united here, which ought not to have been comprised in the same article. In relation to the first it must be observed, that, whatever may be the respect due to property, whenever the public interest requires the sacrifice of that of an individual, if he or his representative will not consent to make such sacrifice for a sufficient indemnity, society must not be deprived of the utility of a canal, a public road, or a fortress. It would therefore have been more wise to have expressed the law thus : *No person can be deprived of*

the least portion of his property without his consent, or the consent of his representatives, even for public uses, unless the necessity of applying it to such uses be fully proved, and then there shall be previously granted to the proprietor a just compensation, either in estates or money, which ever he shall chuse. “ All powers of suspend-
 “ ing laws, or the execution of laws, by any au-
 “ thority, without the consent of the representatives
 “ of the people is injurious to their rights, and
 “ ought not to be exercised.”

This article, which is the eighth, must admit of one exception, for in all states the power of granting pardon is allowed to the chief.

“ Laws made to punish for actions done before
 “ the existence of such laws, and which have not
 “ been declared crimes by preceding laws, are un-
 “ just, oppressive, and inconsistent with the prin-
 “ ciples of a free government.”

The French legislators have adopted this article in their declaration, by saying, *No one can be punished but by virtue of a law established and promulgated prior to the offence, and duly administered.*

After laying down this rule, it should perhaps have been deemed contradictory, to inflict punishment on any persons accused of the crime of *lèse-nation*, because there then existed no law by which limits were prescribed to the obedience due to the orders of the king and his ministers, even when these orders infringed the right of the nation, whose pre-

pre-eminence had indeed been too long considered as nothing.

The twelfth article imports, that

“ All warrants are vexatious and oppressive, if
“ granted without sufficient proof; and if the or-
“ der or requisition which they bear to any officer
“ or messenger of state, to search suspected places,
“ to arrest any person or persons, or to seize their
“ effects, contain not a particular description of the
“ places, persons, and things, against which they
“ are to proceed; and such warrants shall never be
“ granted.”

The same ideas are expressed more precisely in the seventh article of the French declaration, which ordains that “ *No man can be accused, arrested, or*
“ *confined, but in cases determined, and according to the*
“ *forms prescribed by the law. Whoever solicits, dis-*
“ *patches, executes, or procures the execution of arbitra-*
“ *ry orders, ought to be punished: but every citizen*
“ *who is summoned or arrested by virtue of the law ought*
“ *instantly to obey.*”

There still remain two articles which demand my particular attention, because the substance of them is also found in the French declaration of rights: one of them relates to the liberty of the press, and the other to religious toleration.

“ The freedom of the press (says the American
“ declaration) is one of the strongest bulwarks of
“ public

“ public liberty, and can be restrained only in despotic governments.”

An article which gives such a latitude to the liberty of the press as renders it infinite, does honour to the manners of the Americans. It proves that there are no men among them who subsist on the wages of calumny ; who make a trade of lying ; who levy a daily tax on the credulity of the people ; who terrify their imagination by phantoms ; and who, greedy after all places, all dignities to which they may themselves aspire, defame those by whom such places or dignities are honourably filled.

The eleventh article of the French declaration contains a check upon this liberty. “ The free communication of thoughts and opinions (says this article) is one of the most precious rights of man. Every citizen may therefore speak, write, and print freely ; only they must answer for the abuse of that liberty in cases determined by the law.”

This law is not made ; and if we may judge by that which formerly subsisted, the writing and printing works on those subjects which most essentially affect civil liberty will be forbidden. But it is of much importance to have a law established which shall clearly point out what is permitted, and what is to be considered as an abuse ; and which should open a way for the calumniated citizen to confound falsehood, and defend his honour.

According

According to the eighteenth article of the American declaration, “ Religion, or the worship which
“ is due to the Creator, and the manner of its per-
“ formance, ought to be directed by reason and
“ conviction only, and never by force or violence;
“ from whence it follows that every man ought to
“ enjoy full liberty of conscience; and that he
“ should not be punished nor molested in his mode
“ of worshipping, by any magistrate; unless, under
“ pretence of religion, he disturbs the peace, the
“ happiness, or the safety of society.”

The legislators of France have adopted the same thoughts, and almost in the same terms. “ *No one
“ ought to be molested for his opinions, even his religi-
“ ous opinions, provided that avowal of them does not
“ disturb the public order established by law.*”

This article must have met with great opposition in the National Assembly, since it took up the whole of one day’s session.

We have now examined the declaration of the rights of man, which preceded the constitution of the United States of America, and we are convinced that in pursuing the same track with these modern legislators, the French have adopted in a great measure the same principles and the same views.

A work would probably gain much applause which should have for its object the demonstrating, by a comparison much more extensive than was consistent with my present plan, that the English constitution

stitution is as far superior to the constitutions of the other states of Europe, as the American constitution is preferable to that of England: and which should afterwards shew the pre-eminence of the constitution of France over even that of America. If I should not execute this task myself, the materials which I have supplied in these essays will render it more easy to some other hand.

The government of the United States of America is in substance this. The sovereignty resides in the mass of the inhabitants, who confide the exercise of their authority to agents, the number of whom is not so great as to prevent the matters upon which they are to deliberate from being very profoundly discussed; neither is it so confined as to admit of any one among them gaining a too powerful influence. Their commissions are for a short term: their emolument exceeds not what is necessary for indemnifying them their expences: their power consists in making laws which they must themselves obey; and in appointing to some important offices, none of which can be held by any one of themselves, without disqualifying him from being a member of the legislative body.

Each member of the legislature votes according to his own opinion, without having occasion for the consent of his constituents: yet all are obliged to follow their instructions, if any have been given them

them on particular cases, but this very rarely happens.

The right of voting and of being elected a representative extends to all those who reside in the state, provided they have attained the age of twenty-five years, and been citizens of the United States for seven years.

There is but one class of citizens: any titles of nobility which new inhabitants may bear with them thither will give no pre-eminence to the possessor: and the constitution of Georgia requires, that such distinctions should be renounced before the party can hold any public office in that state.

Neither military men, who do not belong to the national militia, nor the ministers of religion, are admitted into any of the departments which form the legislative, the executive, and the judiciary powers.

No persons are obliged to contribute to the maintainance of any clergy but those which belong to the religion they profess. But although no one religion prevails universally, yet there are some states in which the party is required to be a christian, and in others to be a protestant, for being a member of the legislative body.

Each state has a voice in the congress, where it votes by its representatives. In affairs of little consequence, a majority of even one vote is sufficient; but it is not so in important matters; such as declaring

declaring war, or incurring extraordinary expences: the majority must then extend to a determined number.

Thus in the first case, out of the thirteen states, seven votes are sufficient for producing a decree, but in the latter nine are required.

I shall reserve for the next chapter the more complete developement of the constitution of the United States of America. We already know what was the origin of their establishment; the foundation of their first alliance with England; and how they lost their liberty, and fell insensibly under the yoke of Great Britain. We have seen that this yoke became more heavy by degrees; and what efforts the Americans made to break it. Restored at last to their primitive liberty, they raised themselves above all the prejudices, all the false opinions entertained of those vain distinctions, which the influence of other societies had introduced among them. It was not considered as a hardship by those who possessed command to return to obscurity, to be confounded with simple citizens, and to wait until the suffrages of their equals should restore them to public offices. They even carried their love of equality, and their aversion for every species of distinction so far, as to cast from among them the medal assumed by the society, known under the name of *the Cincinnati*, and upon the presages made by some eloquent writers, of the troubles and fatal rivalships which

which might take place in consequence of this badge of distinction, which was to have been made hereditary, General Washington, and the greater part of the officers deputed by the states, disdained to preserve any other ornaments besides their renown and their patriotic virtues. So generous an example was soon imitated throughout all the states of America, and that sign of knightly brotherhood is now borne only by the French officers, who received it as an evidence of their services.

This last trait completes the picture of that sublime confederacy of citizens, who, of thirteen republics, now form but one single state, since that of Rhode Island has adopted the constitution which unites them for ever, and which is greatly superior to that of the seven provinces of Holland.

This great work was not completed without trouble, without opposition; and yet it was formed in the midst of the virtues, and in the bosom of public spirit. Ought the French then to be astonished at the clamours, the contradictions, experienced by a constitution which was to regulate eighty-three departments, and twenty-four millions of inhabitants: which destroyed the hopes of so many individuals, supported by injustice and oppression: which cast down those who were exalted on the humiliation of the multitude: which reduced to their just value exaggerated services: which

which disbanded so many mercenary troops, and suppressed such a number of usurped favours, and falacious ill acquired privileges? Instead of being surprized at the difficulties they had to encounter, the French ought to glory in those they have surmounted. Let them consider the obstinate opinions they had to subdue; the wide difference between the condition of the clergy in France and in America; and compare the ancient stock of the French nobility, which had cast forth such a multitude of shoots, and with which so many weeds were daily intermingling, with the feeble shrub, which had scarcely thrown out any fibres on the soil of the United States: let them balance the distinctions granted in the one and the other hemisphere, and they will at once be convinced, that the greatest difficulty is to conceive how it was possible to introduce into France, that beautiful system of justice and equality, of which America had given the example.

C H A P. XXVII.

OF THE CONSTITUTION OF THE UNITED STATES
OF AMERICA.

IT was not an easy task to prevail upon the inhabitants of a vast continent, and in the moment too when their hearts were inflamed by victory, to submit to the dominion of a new power ; and to acknowledge a centre of authority from whence absolute orders were to proceed.

The thirteen states, emancipated by a solemn treaty of peace, might, each within its respective limits, have established a government, and made laws for itself. But what would have been the result of this independence ?—That concord would not have prevailed among them ; that they would not have concerted measures for their common defence ; and that there would have been no protecting law to which a state, attacked by one more powerful, might appeal.

The Americans were too wise not to perceive the necessity of a firm coalition, secured by a constitution which should unite them forever. But how was this constitution to be formed ? The members of the congress established at Philadelphia, had been

appointed only to repel oppression : the task assigned to General Washington being completed, he had no other duty to discharge, but was free to retire and shroud himself in his glory ; and there existed no legal power which had a right to direct the states to assemble ; to elect deputies ; and to send them, furnished with sufficient powers, to create fundamental laws, whose authority should extend over the thirteen states of America.

In this new situation, the Americans had recourse to the means employed in England, and Ireland, when the executive power is annihilated or suspended : they formed a convention ; and drew up the plan of a provincial constitution, which could only acquire the force of law when approved and ratified by at least a majority of the states. Thus the constitution of which I am going to give an account, was not the work of a constitutive body, invested with the power of decreeing laws.

After meeting for a time with the opposition, the observations, and even the positive refusal, of some of the states, that work which was produced by wisdom, justice, and a principle of equality, has at length prevailed, and obtained the concurrence of all the states.

The American constitution has one very great merit, I mean its conciseness ; for the whole is comprised in twenty pages. Thus there is not one chief, one agent of authority, or even one citizen, who

who cannot inform himself at once of the extent of his duties, and of the power with which he is himself invested, or is authorized to invest others. I shall now take a view of the principal points of this constitution, the first article of which is thus expressed :

“ All legislative powers herein granted, shall be
“ vested in a Congress of the United States, which
“ shall consist of a senate and house of representa-
“ tives.

“ The house of representatives shall be composed
“ of members chosen every second year by the
“ people of the several states.

“ No person shall be a representative who shall
“ not have attained to the age of twenty-five years,
“ and been seven years a citizen of the United
“ States, and who shall not, when elected, be an in-
“ habitant of that state in which he shall be chosen.

“ The number of representatives shall not ex-
“ ceed one for every thirty thousand, but each state
“ shall have at least one representative ; and until
“ such enumeration shall be made, the state of
“ New-Hampshire shall be entitled to chuse three,
“ Massachusetts eight, Rhode Island and Provi-
“ dence Plantations one, Connecticut five, New-
“ York six, New-Jersey four, Pennsylvania eight,
“ Delaware one, Maryland six, Virginia ten, North-
“ Carolina five, South-Carolina five, and Georgia
“ three.”

In admitting one representative for every thirty thousand, as there are sixty-five deputies, the number of represented inhabitants in the United States must be one million nine hundred and fifty thousand, which, together with seven hundred thousand slaves employed in the thirteen states, form a population of two millions six hundred and fifty thousand souls. *

“ When vacancies happen in the representation
“ from any state, the executive authority thereof
“ shall issue writs of election to fill such vacancies.

“ The house of representatives shall chuse their
“ speaker and other officers, and shall have the sole
“ power of impeachment.

“ The senate of the United States shall be
“ composed of two senators from each state, chosen
“ by the legislature thereof for six years; and
“ each senator shall have one vote.”

Thus no regard is paid to the number of inhabitants in a state, in the right of nominating senators.

“ No person shall be a senator who shall not
“ have attained to the age of thirty years, and been
“ nine years a citizen of the United States, and
“ who shall not, when elected, be an inhabitant
“ of that state for which he shall be chosen.

* By an error, evidently of the press, the total number of inhabitants is in the original mis-stated, to be eight millions two hundred persons.

“ The

“ The vice-president of the United States shall
“ be president of the senate, but shall have no vote
“ unless they be equally divided.

“ The senate shall chuse their other officers, and
“ also a president *pro tempore* in the absence of the
“ vice-president, or when he shall exercise the of-
“ fice of president of the United States.

“ The senate shall have the sole power to try
“ impeachments. When setting for that purpose
“ they shall be on oath or affirmation.” This is
a pure and simple declaration on the part of the
quakers, who are forbidden by their religion to take
an oath: “ No person shall be convicted without
“ the concurrence of two-thirds of the members
“ present.

“ Immediately after they shall be assembled
“ in consequence of the first election, they shall
“ be divided as equally as may be into three
“ classes. The seats of the senators of the first
“ class shall be vacated at the expiration of the
“ second year; of the second class at the expiration
“ of the fourth year; and of the third class at the
“ expiration of the sixth year; so that one third may
“ be chosen every second year.

“ The congress shall assemble at least once every
“ year, and such meeting shall be on the first Mon-
“ day in December, unless they shall by law appoint
“ a different day.

“ Each house may determine the rules of its pro-

“ceedings, punish its members for disorderly be-
“haviour; and, with the concurrence of two-
“thirds, expel a member.

“Neither house during the session of Congress
“shall, without the consent of the other, adjourn
“for more than three days.

“They shall in all cases, except treason, felony,
“and breach of peace, be privileged from arrest
“during their attendance at the session of their re-
“spective houses, and in going to and returning
“from the same.

“The senators and representatives shall receive
“a compensation for their services, to be paid out
“of the treasury of the United States.

“No senator or representative shall, during the
“time for which he was elected, be appointed to
“any civil office under the authority of the United
“States, and no person holding any office under
“the United States, shall be a member of either
“house during his continuance in office.

“All bills for raising revenue shall originate in
“the house of representatives; but the senate may
“propose or concur with amendments, as on other
“bills.

“Every bill which shall have passed the house
“of representatives and the senate, shall, before
“it becomes a law, be presented to the president
“of the United States; if he approves he shall
“sign it, but if not he shall return it, with his ob-
“jections,

“jections, to that house in which it shall have
“originated, who shall enter the objections at large
“on their journals, and proceed to reconsider it.
“If after such reconsideration two-thirds of that
“house shall agree to pass that bill, it shall be sent,
“together with the objections, to the other house,
“by which it shall likewise be reconsidered, and
“if approved by two-thirds of that house, it shall
“become a law. But in all such cases the votes
“of both houses shall be determined by *yeas* and
“*nays*, and the names of the persons voting for and
“against the bill shall be entered on the journal
“of each house respectively.”

Let us pause for a moment; and compare this wisely digested article, with that in the French constitution, relative to the royal sanction. When a decree has been passed in the national assembly, by a majority of even one voice, it becomes the will of the assembly; and is carried to the chief of the nation, who is considered as part of the legislative body. The chief must either suspend, or give it his sanction. If the decree, though good in many points, requires modification; it is suspended; after which, if it be re-offered in another legislature, it must be presented in its original form; and as it consequently possesses all its original faults, it will be again suspended. In fine, if a third legislature insists on its admission, it acquires the force of law: But by this means a decree is kept back for six years,

which might have been admitted in the first year, if the constitution had authorized the monarch to explain the cause of his refusing it his sanction, and required that his reasons for such refusal should be reported to the assembly : after such report, if two thirds of the assembly did not adopt his objections, the same decree should be carried back to the king, who if he persisted in his refusal, could still employ his *suspensive veto* ; but if, on the contrary, the modifications pointed out by the king were adopted by a majority, the decree should be engrossed and presented for the royal acceptance.

But to return to the American Constitution :

“ Every order, resolution, or vote, to which the
 “ concurrence of the senate and house of represen-
 “ tatives may be necessary (except on a question
 “ of adjournment) shall be presented to the presi-
 “ dent of the United States ; and before the same
 “ shall take effect, shall be approved by him, or
 “ being disapproved by him, shall be repassed by
 “ two-thirds of the senate and house of representa-
 “ tives, according to the rules and conditions pre-
 “ scribed in the case of a bill.”

We will now take a view of the powers of Congress, and observe what constitutes its sovereignty.

“ The Congress shall have power,
 “ To lay and collect taxes, duties, imposts, and
 “ excises ; to pay the debts, and provide for the
 “ common

“ common defence and general welfare of the Uni-
“ ted States; but all duties, imposts, and excises,
“ shall be uniform throughout the United States ;

“ To borrow money on the United States ;

“ To regulate commerce with foreign nations,
“ and among the several states, and with the Indian
“ tribes ;

“ To establish an uniform rule of naturalization,
“ and uniform laws on the subject of bankruptcies,
“ throughout the United States ;

“ To coin money, regulate the value thereof,
“ and of foreign coin, and fix the standard of
“ weights and measures ;

“ To provide for the punishment of counterfeit-
“ ing the securities and currant coin of the United
“ States ;

“ To establish post-offices and post-roads ;

“ To promote the progress of science and useful
“ arts, by securing, for limited times, to authors
“ and inventors, the exclusive right to their re-
“ spective writings and discoveries ;

“ To constitute tribunals inferior to the supreme
“ court ;

“ To define and punish piracies and felonies com-
“ mitted on the high seas, and offences against the
“ law of nations ;

“ To declare war, grant letters of marque and
“ reprisal, and make rules concerning captures on
“ land and water ;

“ To

“ To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years ;

“ To provide and maintain a navy ;

“ To make rules for the government and regulation of the land and naval forces ;

“ To provide for the calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions ;

“ To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department, or office thereof.

“ No money shall be drawn from the treasury but in consequence of appropriations made by law ; and a regular statement and account of the receipts and expenditures of all public money, shall be published from time to time.

“ No title of nobility shall be granted by the United States.”

Thus we see that the Congress is composed of two chambers ; a chamber of representatives and a chamber of senate : that the first is composed of sixty-five members, the other of twenty-six senators ; and that the legislative power resides in these two distinct chambers.

We will now pass to the executive power.

“ The

“ The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, the vice-president, being chosen for the same term.”

The president might, according to the constitution, be re-elected; but some states have demanded of the Congress to make a law prohibiting the same person exercising the office of president for more than eight years, in a period of sixteen years.

“ No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years resident within the United States.”

His election is made with great justice, and without those complicated forms which we have remarked in the elections of the doges of Venice and of Genoa. The constitution directs that

“ The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of voters for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate

“ senate and house of representatives, open all the
“ certificates, and all the votes shall then be counted.
“ The person having the greatest number of votes
“ shall be the president, if such number be a majority of the whole number of electors appointed ;
“ and if there be more than one who have such
“ majority, and have an equal number of votes,
“ then the house of representatives shall immediately chuse by ballot one of them for president :
“ and if no person have a majority, then from the
“ five highest on the list, the said house shall in
“ like manner chuse the president. But in chusing
“ the president the votes shall be taken by states, the
“ representatives from each state having one vote.

“ Before he enter on the execution of his office,
“ he shall take the following oath or affirmation :
“ *I do solemnly swear (or affirm) that I will faithfully*
“ *execute the office of president of the United States,*
“ *and I will, to the best of my ability, preserve, protect,*
“ *and defend, the constitution of the United*
“ *States.*

“ The president shall be commander in chief of
“ the army and navy of the United States, and of
“ the militia of the several states when called into
“ the actual service of the United States ; and he
“ shall have power to grant reprieves and pardons
“ for offences against the United States, except in
“ cases of impeachment.

“ He shall have power, by and with the advice
“ and consent of the senate, to make treaties, pro-

“ vided two-thirds of the senators present concur ;
“ and he shall nominate, and by and with the ad-
“ vice and consent of the senate shall appoint am-
“ bassadors, other public ministers and consuls,
“ and judges of the supreme court.

“ The president shall have power to fill up all
“ vacancies that may happen during the recess of
“ the senate, by granting commissions which shall
“ expire at the end of their next session.

“ He may, on extraordinary occasions, convene
“ both houses, or either of them ; and in case of
“ disagreement between them, with respect to the
“ time of adjournment, he may adjourn them to
“ such time as he may think proper ; he shall re-
“ ceive ambassadors, and other public ministers ;
“ he shall take care that the laws be faithfully
“ executed, and shall commission all the officers
“ of the United States.

“ The president, vice-president, and all civil
“ officers of the United States, shall be removed
“ from office on impeachment for, and conviction
“ of, treason, bribery, or other high crimes and
“ misdemeanors.”

On the president being so removed or suspended
the chief judge presides in the senate during the
trial.

The constitution directs that,

“ The president shall, at stated times, receive
“ for his services a compensation, which shall nei-
“ ther

“ther be increased nor diminished during the period for which he shall have been elected.”

I know not whether the United States have prevailed on General Washington to accept of any appointment, since he has been placed at the head of the republic, the author of *Recherches sur les Etats Unis*; in speaking of his disinterestedness, says, “When he consented after a long refusal to take upon him the command of the army, he proposed to Congress to support the expence of his table, but declared that he would accept no kind of emolument: he would not even receive his portion of the lands which were distributed among the officers of the army, according to their rank.”

“Before the revolution his income enabled him to support a decent style of hospitality; but since that event, there is reason to fear it is not sufficient to answer his expence, as there is not an officer upon the continent can deny himself the pleasure of going at times to pass some days with his general; and his house is besides continually filled with foreigners who have an ardent desire of seeing him.”

“At the commencement of the year 1785, the general assembly of Virginia were in hopes of prevailing on him to accept a hundred bonds of three hundred piastres each; but their efforts to induce him to receive them as a testimony of the
“ public

“ public gratitude, were ineffectual ; and this great
“ man excused himself by saying that he had no
“ children, and, if his revenue was not sufficient,
“ he should rather chuse to sell a part of his estates,
“ as his relations stood in no need of the succession.
“ He added, that he felt an invincible repugnance
“ to accepting any thing, and that he hoped it was
“ not the effect of vanity.”

Antiquity offers not to our admiration a more sublime mind than that of General Washington. He was compared in the early part of the war to Fabius, and even reproached by some for his prudent slowness ; but it has been since acknowledged that this prudence was more active than was at the time supposed, and that he deserved to be compared to Scipio as much for his courage as his virtues.

If such a precedent would not be attended with extreme danger to their constitution, the Americans could not have performed a nobler act of justice, than by prolonging in favour of Mr. Washington, the office of president, until that period arrived when age should render him incapable of discharging its duties. But that wise republican would have opposed in the strongest manner the admission of such an innovation, lest it should be in future attended with evil consequences.

We will now pass on to the third branch of the American constitution, which is the judicial power.

“ The

“ The judicial power of the United States shall
“ be vested in one supreme court, and in such in-
“ ferior courts as the Congress may from time to
“ time ordain and establish. The judges, both of
“ the supreme and inferior courts, shall hold their
“ offices during good behaviour, and shall at stated
“ times, receive for their services, a compensation,
“ which shall not be diminished during their con-
“ tinuance in office.

“ The judicial power shall extend to all cases,
“ in law and equity, arising under this constitution,
“ the laws of the United States, and treaties made,
“ or which shall be made under their authority ;
“ to all cases affecting ambassadors, other public
“ ministers and consuls ; to all cases of admiralty
“ and maritime jurisdiction ; to controversies to
“ which the United States shall be a party ; to
“ controversies between two or more states, be-
“ tween a state and citizens of another state, be-
“ tween citizens of different states.”

“ In all cases affecting ambassadors, other public
“ minister and consuls, and those in which a state
“ shall be a party, the supreme court shall have
“ original jurisdiction.

“ The trial of all crimes, except in cases of im-
“ peachment, shall be by jury ; and such trial shall
“ be held in the state where the said crime shall
“ have been committed.

“ Treason

“ Treason against the United States shall consist
“ only in levying war against them, or adhering to
“ their enemies, and giving them aid and com-
“ fort.”

It was wisely done to mark so precisely that crime which has been on many occasions so arbitrarily and so falsely defined : but it was unnecessary to add in the article, that the party accused should not be convicted but on the testimony of two witnesses, because there is not a country on earth where two villains may not be influenced by hatred, or seduced by bribes, to bear false witness against a citizen.

I have long since said, and it cannot be too frequently repeated, that when a sentence of death or even of inferior punishment is made to depend on the depositions of two persons, justice runs the risk of injuring the innocent either in their lives or their honour. Besides there are few men whose senses are not liable to deception; and therefore, though their intention may be just, it is dangerous to pass judgment on their simple evidence, unless it be corroborated by other proofs of the guilt of the party accused.

What I have said will sufficiently make known the constitution which extends through the thirteen United States of America. Rhode Island refused for a considerable time to accede to it, undoubtedly from the dissatisfaction of being allowed only one single deputy in the house of representatives, but

by her adherence she now forms the link of union which binds all the parts of this great confederacy together.

Each state has its particular laws, police, and tribunals, for its internal affairs, the examination of which would lead me too far : I shall therefore only observe, that the constitutions of the thirteen states have been printed by order of congress, and that there is an excellent translation of them to be found in France.

Any reflections from me would be superfluous to point out the purity of this government. Representatives elected by the free will of the people possess the whole legislative power : yet this authority is not only limited but counterbalanced by a house of senators, who hold their office for no more than six years, and one third of whom are changed every two years.

The executive power is confided for four years only, to a personage raised to that high office by the suffrages of all the states. He possesses not the title of *king*, nor even that of *duke* : he is neither a *monarch*, nor a *chief* ; he is a *president* ; but he nevertheless enjoys, while in office, a degree of power almost equal to that of the king of England. He is, as I have already observed, the commander in chief both of the land and sea forces : he has the right of pardoning offenders : he treats with ambassadors : and he can adjourn both the chambers of congress.

If two thirds of the senate concur in his opinion, he makes treaties : the commissioners and officers of the United States act in his name ; and he possesses sufficient power for doing good, but none for doing evil : an impotence which surely no man can be so perverse as to lament.

The judges are not appointed for any fixed term : it therefore depends upon their own conduct to render their offices permanent : and by performing their functions with integrity, they may ensure the enjoyment of their places for life.

The citizens have no reason to fear being overcharged with taxes, because their representatives, their defenders, are the more interested in guarding them from excessive imposts, as they must themselves bear the burden equally with their neighbours. They have no reason to fear the misapplication of the money paid into their treasury, because those who have the charge of it are obliged to render an exact account, and that it can only be applied under the immediate direction of the law.

A courtier, an adroit solicitor, can there obtain nothing for his services : lest therefore the picture of a republic, so interesting by its virtues, and the purity of its legislation, should seduce Europeans, and prevail on them to emigrate, a step which must be followed with repentance, I think it my duty to present some reflections made upon the subject by the venerable Franklin, of virtuous memory.

“ Many individuals (says he) declared to the
“ author of this opinion, the desire which they felt
“ for establishing themselves on our continent, but
“ his exact knowledge of those countries convinced
“ him that such a project must be the effect of ig-
“ norance, and of the false ideas they had formed
“ of what was to be hoped for there.

“ A number of persons imagine that the inhabit-
“ ants of North America are rich ; that they are
“ both able, and disposed to recompence all kinds
“ of industry ; that they are at the same time very
“ ignorant in all the sciences ; and that in conse-
“ quence, foreigners of genius, who have cultivated
“ the *belles-lettres*, and the fine arts, must be much
“ desired among them. They also suppose that
“ there are many lucrative employments, which the
“ inhabitants of the country are not qualified to
“ fill ; and that strangers of distinguished birth
“ must be there greatly respected, and likely to
“ obtain at once the best of these appointments.

“ The truth is, that though the people of this
“ country are not in general so poor as those in
“ Europe, yet there are not many among us who
“ in the old world would be accounted wealthy.
“ We have few men of large landed estates, few
“ farmers : and people must either cultivate their
“ grounds themselves, or apply to some trade, or
“ to merchandize. There are very few people rich
“ enough to pay artists in painting, sculpture, or
architecture,

“ architecture, and therefore such of the Ameri-
“ cans as have a natural genius for these arts have
“ quitted their country for Europe, where their
“ labours are more adequately rewarded.

“ The *belles-lettres* and the mathematics are in-
“ deed much esteemed among us ; but we have al-
“ ready nine colleges or universities, provided with
“ very able professors, besides a great number of
“ academies. Young people are brought up there
“ in the study of the languages, and of all the pro-
“ fessions connected with jurisprudence and physics.
“ There are few civil offices, and no superfluous
“ ones : and it is an established rule, that no em-
“ ployment should be sufficiently lucrative to pro-
“ duce corruption.

“ With regard to military offices they terminate
“ with the war ; for at that moment the army is
“ disbanded.

“ I would still less advise those to come hither
“ who have no other recommendation than their
“ birth. It is (continues Dr. Franklin) an article
“ which has its value in Europe, but it could not
“ be carried to a worse market than America,
“ where they never say of a stranger, *what is he ?*
“ but, *what does he do ?* If he can exercise a useful
“ profession he is welcome ; and if he behaves well
“ he will be respected by all who know him. Here
“ a labourer, or even an artizan is honoured in
“ proportion to the utility he is of ; and it is a saying

“ among the people, that God himself is the greatest artist in the universe.

“ As to the encouragement which foreigners may expect from government, it is only that which is offered by good laws and liberty : and whoever does not bring a fortune, must labour and be industrious.”

I will now explain for what description of people an establishment in America is eligible.

“ The land upon the continent is to be had very cheap, because of our uninhabited forests : a hundred acres of fertile ground, and covered in many parts with wood, if near the frontiers, may be purchased for eight or ten guineas ; so that young people, who are active and laborious, and understand the cultivation of land and the management of cattle, which are pretty much the same here as in Europe, may easily establish themselves among us.”

It appears from these truths, that before an European thinks of going to live in America, he should consider whether he can carry with him such a fortune as will enable him to subsist upon its income ; or a profession sufficiently useful to procure him the means of support : or in fine, whether he has money enough to buy land, clear it, and wait till its produce shall furnish him a supply. Without one of these means he will only drag on there an indigent and despised existence, so irksome as to think

think himself fortunate to be relieved from it, by being received into apprenticeship by an artizan, or sent back to the country he had been induced to forsake by a daring spirit of enterprize.

We have now seen what has been done by the United States to secure their liberty, and consolidate their independence. But let them guard against resigning themselves to a too dangerous security. Let them avoid, let them prevent division: and let them remember that they derive all their strength from their concord.

If England should ever be able to disunite them: to make any one state throw itself again under her protection, how would she fly to the assistance of those who asked the aid of her power, How would she hasten to send her ships thither under the pretence of an officious mediation! And who knows what projects she might conceive, when she had there so great a force ready for immediate action? Who knows whether, after uniting herself by some secret treaty with Spain; and trusting in the aversion now justly entertained by France for war, she might not nourish the design of bringing again under her dominion those colonies which she saw torn from her, as a ferocious animal does its prey, with all the fury of resentment.

It is impossible to foresee what may one day be the fate of this new power, which has sprung up, and acquired strength at once: whether she will be again

subjected to the European yoke: or, on the contrary, extend her dominion over the colonies of Europe; associate the Antiles in her confederate states; behold formidable fleets sailing from her ports; and reign the empress of the ocean. Perhaps it may be in some measure on the wisdom of the French constitution that her aggrandisement or the termination of her existence may depend: there can be no doubt, but minds actuated with the desire of liberty, will go and fix their abode on the soil where their hopes find the strongest attractions: and if persecution and intolerance disturb the possessions of France; if the inhabitants of her colonies experience vexations under rapacious and arbitrary governors, the uncultivated regions of Virginia will soon be peopled by emigrants from those colonies; and that long chain which, extending over the Atlantic, unites those fruitful dominions to France, will in a little time be entirely broken. Thus the mother country will lose her children; who will no longer acknowledge her authority, but attach themselves to a country nearer to them, from whence they may bring all the necessaries they have occasion for, protected by the flag of liberty. Such are the dangers which France ought to prevent, and such the objects with which the minister of her marine should be continually employed. It will be unfortunate for his country, if he conducts affairs in the midst of a tempest, as he would in the
moment

moment of a calm; or if he should too obstinately struggle against the winds which fill her sails. On his able management depends the commerce of France, and her influence in the two hemispheres. But I will say no more: the course which I engaged is at an end: and whoever recollects the point from which I set out, and the constitutions which I have run through, must perceive that the burden with which I charged myself was too heavy for me to support.

I believed it necessary to take a view of the origin of societies: I attached myself to Aristotle's principles of government, and I applied them to the Grecian republics, and to that of Carthage. We have seen by what causes these states, whose glory once shone with such resplendence over the earth, have been entirely eclipsed. We have traversed with rapidity the Roman empire, to pass on to the empire of Germany: and we have observed with care all the parts of that commanding constitution, which appears to be a confederacy of sovereigns against the inhabitants of a vast region divided into monarchies and principalities. We have advanced beyond Germany and considered the Polish constitution *, a constitution which gives all the power to the nobles; all the shew of majesty to the monarch; while it casts humiliation on the citizens, and servitude on the peasants. We have examined the works of two contending legislators

* The late constitution is here meant.

who disputed the honour of furnishing to Poland the best plan of government: and, after having attentively observed this glorious contest, we have awarded the palm to the rival of de Mably.

After quitting Poland we have penetrated into Sweden: that country where the people, divided into four orders, have been sovereign and subjects in turn; and, after proceeding from revolution to revolution, seem at last to have attained a settled form of government.

We have cast a glance over Denmark; where discovering nothing besides the most outrageous tyranny, we could have wished to snatch from the sovereign that royal law which renders him the supreme arbiter of the fortune, the honour, and the life of his subjects.

We have quitted those frozen regions, and returned to Italy; where a republic, formerly the mistress of the Adriatic sea, for a long time engaged our attention, by the complicated form of its aristocracy; which, with one hand holds its chief in chains, and with the other keeps the humbled citizen prostrate before its senate, and trembling before its inquisitors.

The smaller republics have not appeared unworthy of our regards, because every thing which bears the name of republic excites the attention of politicians; though in seeking there for liberty, they often find nothing but oppression.

It was impossible for us not to dwell on those provinces, whose confederacy has so long formed a contrast to that of Germany ; and which, after emancipating themselves from the yoke of Spain, triumphing over the ocean, and contending with the forces of the mighty monarch of France, suffered part of their privileges to be taken from them, and crouched under the ambition of a woman.

An island, still more renowned for its love of liberty than its puissance, detained us a long while within its limits. Proud of her constitution, she has displayed to us all its beauties, but she could not hide its defects. We have drawn aside the veil which concealed them, and we have found that there may exist in the universe a better government than that of which she is so vain : we have sought for that government in another hemisphere, and the genius of liberty has led us into the bosom of the United States of America.

In thus conducting those who lent me their attention from country to country, I have perceived that they followed me with pain, with disgust, if I made them lose sight of their own nation, and did not frequently turn towards that object of their affections. I have never therefore let an opportunity escape me of adverting to that constitution, which is to them so dear, whenever I found any affinity

finity between the institutions of foreigners and those which have been created in France.

I believe I have preserved in these comparisons the impartiality of a public man. I have endeavoured also not to embitter the misfortunes of those who are the victims of a plan which, in its progress, necessarily destroyed possessions, so much the more dear, as they had been long enjoyed.

If it is considered that I have been obliged to speak almost extempore on the subjects of which I have treated; and that I had to dismiss and obliterate in the commencement of my undertaking, a multitude of antiquated principles, which had formerly been the objects of my studies, it must be acknowledged, that to open a course of lectures at the Lyceum on public law was in me a courageous enterprize: my principal motive for attempting it, was to support, by my feeble efforts, an establishment, falling hastily to decay, in which so many useful objects were united: and where the sciences, history, and the *belles-lettres*, had been developed by such able hands.

I presumed that by adding to these subjects, so interesting in themselves, that which at this moment occupies all minds, this establishment would become national, and obtain the preference over those useless assemblies, which offer no inducement for frequenting them but the opportunity of indulging a love of idleness or a spirit of controversy. I

am

am still willing to believe that my hopes will not be deceived: but, whatever may happen, I shall at least always preserve one remembrance, which will be a certain reward for my labour, I mean that of having merited, or at least obtained the suffrages of an assembly as estimable for its knowledge as its patriotism.

CHAP.

C H A P. XXVIII.

A PATRIOTIC CATECHISM FOR THE USE OF THE
FRENCH.

* **A**N account of the constitution of France would be at this moment premature : time and experience must consolidate the labour of her legislators : but to diffuse public instruction through the cities, and more particularly through the country, is a work which cannot be too much accelerated. Men of patriotism and knowledge engaging in this task, no less useful than honourable, should not endeavour to write elegantly, but clearly : and to express good sentiments in a manner suited to the capacity of illiterate minds. All ornaments of style ought to be sacrificed on such an occasion, and the language made familiar without being low : in short, it should be the language of a well informed peasant, who was making known his just ideas to his fellow villagers.

• As the French constitution is now finished, and in every body's hands, it may be thought perhaps that this chapter might have been omitted : but as the sentiments it breathes do much honour to the author, I judged its insertion indispensable.

This

This attempt was made before the representatives of France had formed themselves into a national assembly. The decrees which have since that time proceeded from the legislative body were found to require some alterations, but the fundamental principles which I have touched upon have not been altered, because whatever is founded on wisdom, justice, and the laws of nature is invariable.

The French legislature began this work by a declaration of the rights of man. I shall terminate mine by declaring the duties of the citizen.

PATRIOTIC CATECHISM.

What is a Frenchman ?

A descendant of the Franks who conquered the Gauls.

Is there any distinction between the conquerors and the conquered people ?

Not now. The Franks and the Gauls united and became incorporated under the first race of their kings. They acknowledged the same monarch, adopted the same religion, obeyed the same laws, and were expressed by the same appellation.

What is now understood by the name of Frank, or Frenchman ?

A free man.

Has a free man the faculty of doing whatever he pleases ?

He

He may do every thing which injures not another ; and every thing which is not prohibited by some law.

The law is therefore above him ?

It is above the whole nation : because it is a pact made between all the members of the society which composes the nation.

Who are the nation ?

The king and the people.

Who is the king ?

He is the chief whom the people have chosen for executing the law, and maintaining the order prescribed by the law.

Who are the people ?

All those, except the king, who form the nation.

Must the king be always respected ?

He must always be respected ; because whoever respects not the king, fails in the respect which is due to the nation.

Must he be always obeyed ?

The nation owes him obedience while he commands nothing contrary to the law.

What power is it that makes the law ?

The people and the king.

How is a law to be known as such ?

When it has been proposed by the people to the king ; approved by him ; and that both the one and the other have consented to its execution.

How can we be certain that a law has been proposed by the people and consented to by the king ?

When all the inhabitants of the departments are represented by men whom they have freely elected and invested with their powers to stipulate for their rights : and when these representatives have had the liberty of rejecting or adopting the regulations to which the force of law has been given.

What ought to be the punishment of a free man who refuses to obey a law ?

The punishment must be pronounced by the law itself ; or by a law purposely made.

What then is the distinction between a free man, such as a Frenchman, and the subject of a despot, since they must both be equally obedient to the law ?

The former concurs in making the law : the latter must receive it in spite of him. When a law is made, the former is still at liberty to obey it, or to seek, under some other dominion, an exemption from obedience ; while the latter is perhaps detained under the yoke. Death, or submission to the will of another, is the alternative of the slave. Subjection to the will of a people, of whom he makes a part, or voluntary exile, is the right of a Frenchman.

What are the means of existence for a Frenchman ?

His property, his labour, his industry, or his talents : and if he has no property, and is incapable of labour, the charity of the rich, and the relief afforded by the state.

What is property ?

That which has been transmitted to us ; that which we have acquired ; or that which we have created.

Is it always a crime to attack the property of another ?

Yes, always : because order depends on the respect which is due to property : and men could not be sure of enjoying what they actually possessed, or what they might in future acquire, but in as much as they had agreed not to touch what belonged to another.

He who has nothing must therefore resign himself to die of misery, if nothing is given him ?

Whoever has hands, and strength, may do something, because he has the means of labouring ; and if he habituates himself to labour, he is certain of gaining a subsistence by it : but the rich must subsist by their property, which they may lose by a thousand accidents.

What difference is there between the labourer and the rich person by whom he is employed ?

There is no difference between them when they are equally virtuous and just : the one sells his labour, and the other pays for it. If the poor have
occasion

occasion for the rich, the rich have still more occasion for the poor; and if all the poor were to resolve against rendering any service to the rich, the latter would be the greatest sufferers.

What is the labourer bound to do for the proprietor who employs him?

To labour faithfully for him at the price agreed between them.

What does the vassal owe to the lord of the domain on which he resides?

There are no longer vassals, no longer lords: but there will always exist, in what is called a *fief* or *seignorie*, a principal proprietor, known under the ancient title of *seignor*. If this principal proprietor has had illustrious ancestors, regard will be due to him as their descendant: if he has personal virtues, they will entitle him to respect; and if he acts well he has a right to the gratitude of those around him.

What do parishioners owe to their clergyman?

Great veneration to his clerical character, as the minister of religion: but they are bound to assist and confide in him only in as much as they esteem him for his behaviour; and his exact performance of his duties.

How can the labourer become in his turn a proprietor?

By laying up what he can spare of his salary: by clearing the land which no person has cultivated, and gathering in its produce; or by purchasing
F f 2 ground

ground which is offered to sale. He may also establish a workshop, and labour in it on his own account : and in fine he may gain property by turning his talents and industry to profit.

Is there, in the eye of the law, any difference between the proprietor and the labourer ?

Yes, there are some in favour of the proprietor, because he gives to society a pledge for his good conduct, and for his punctuality in paying towards the public expences. The one has a certain dwelling, the other has not : the one gives security to the law, the other can fly from it when he pleases.

Men are not then equal in rights ?

They are equal, in that they have all an equal right to justice : they are equal, because, if possessed of the talents and faculties requisite for any profession whatever, they may attain to the exercise of it. But until they have acquired those talents, and those faculties, they are inferior to men who have given proof of their possessing them ; as the apprentice is inferior to the master, the infant to the youth, and the youth to a full formed man.

Are they obliged to pay any imposts ?

Yes, every man is bound to pay any impost consented to by the representatives of the people, in the proportion fixed by them, under pain of being deemed a rebel to the will of the community, and of having the expence occasioned by his unjust resistance fall upon himself.

Must

Must they pay to their late *seignors* the duties which they require in virtue of their titles ?

Yes, if these titles have been confirmed by the National Assembly : because that confirmation is a proof that nothing is required but what is reasonable.

Must the *corvée* be performed ?

That odious name is now effaced. But as roads are means of communication which facilitate the exportation, and the sale of merchandize, all proprietors ought without distinction, and in proportion to the extent of their ground, to contribute to maintaining them, according to the regulations resolved upon in the *directoires* of the departments, and notified by the districts or municipalities.

Are men obliged to enrol themselves in the military service ?

The inhabitants of a country must for their own sakes defend the ground on which they exist : all ought therefore to contribute to the force of the army, instituted for preserving the possession of the community at large. And in whatever manner this contribution is to be made, when once it has been decreed by the National Assembly, their decree must be submitted to, under pain of being declared vile, a bad citizen, and unworthy of the name of Frenchman.

May a man, who has received an offence, do himself justice ?

He must not do himself justice but when he has no other means of obtaining it but by himself, Justice thus rendered is almost always injustice; because the same person is both judge and party. The vil which a man does to another will never repair his own.

If an enemy burns your house, and you turn and burn his, there are two houses burnt; and the offended and offender are involved in the same misfortune: if, on the contrary, justice condemns your enemy to cede you his house, or to rebuild yours, the real culprit alone will suffer.

If you grievously wound him who has rendered you incapable of labour, you both become chargeable to society: but if he is condemned to labour for you until you are re-established, society punishes the aggressor, without being burdened by the person he injured.

What are the duties of children towards their fathers and mothers?

To obey them while they live by their care; to honour them when they subsist by their own labour; and to support them under infirmities and in old age, as an acknowledgement of the succours which they received from them while in a state of infancy.

What are the duties of a husband to his wife?

To make her life as happy as his own; to consider her weakness or diseases; to require nothing from

from her which is not consistent with propriety ; to set her an example of justice in his domestic concerns ; to protect her with all his strength, with all his courage ; and to preserve, as far as it depends upon himself, the affections of love and friendship ; and all those sentiments which can attach her to her family.

What are the duties of a wife to her husband ?

To be always faithful to the oath she made of loving only him : to avoid giving him any cause of jealousy ; to concur with all her strength, with all her faculties to support the burden of matrimonial society : to preserve that gentleness which so well becomes a woman : to make her house appear the scene of happiness that her husband may always return to it with pleasure : to exhort him to virtue with the tenderness of friendship : to bear with patience the defects she cannot correct : to talk frequently with him of their children when she finds him dissipated or indolent : to soften his sufferings in illness, to console him under chagrine : to make life dear to him, and to preserve it as long as its preservation depends upon her.

Is there in the civil order, any difference between the inhabitant of the city and the inhabitant of the country ?

No, they are equally Frenchmen ; equally parts of that great community of the kingdom which is divided into municipalities, cantons, districts, and

departments : some of whom unite to live by their industry, or on their revenue ; and others disperse themselves through the plains in order to multiply the articles of subsistence, which they exchange for the money of those who inhabit the towns.

Do they owe reciprocal aid to each other ?

Undoubtedly they do : for besides their being fellow citizens their mutual interest requires it. The more consumers there are in the towns the more certain the husbandman is of selling what his fields produce, and of receiving the reward of his labour : and the more husbandmen there are, the more secure the citizen finds himself of being amply supplied with provisions. The citizen therefore who should despise the villager would be guilty of absurdity, because it would be despising him by whom he was sustained ; and the villager who should disdain the inhabitant of the city would be no less stupid, since his disdain would fall on him by whose money he was enabled to procure his implements of husbandry, purchase cattle, and pay the taxes.

Who are the men whom we may justly despise ?

Those who though they are able to labour prefer the shame of beggary to the honour of a useful profession : those who giving themselves up to drunkenness are continually falling into a state of folly or frenzy : those who consume in debauchery the reward of their labour ; and by their ill conduct expose themselves to misery, and their children to the want

want of bread: and those who pay no respect to public manners, but disturb society by their scandal or their impudence.

Who are the men to whom particular respect is due?

Those who discharge with probity and justice the civil and military duties for the good of society; the former are agents of the legislative power, the latter of the executive; who all concur for establishing order and security in the different divisions of that grand community, which constitutes their country.

When there is cause to complain of these agents, to whom must such complaints be made?

If the agent is of inferior rank, to his chief: if he is a chief, to the tribunal from whence he has received his powers.

What tribunal is that?

The municipality, the district, or the directory of the department.

But if the complainant is refused justice there?

He must persist, and afterwards bear his complaints to a committee of the national assembly which is charged with the business of imposts, if his complaint relates to any impost; or to any other committee employed on the particular object concerning which he has been denied justice.

When a Frenchman is determined to quit his country, what precautions must he take for bearing with

with him his property, and securing himself from all apprehensions on his journey?

He must declare his intention to the chief of his municipality; who is obliged to give him a pass-port for leaving the kingdom, if his departure be not opposed by his creditors, on the plea of their being in danger of suffering, unless he leaves security for the acquittal of his engagements.

When a man is disposed to make his thoughts public by means of printing, is he at liberty to do so?

Yes if he signs what he intends to print; or if the printer gives security by his signature.

To what does he expose himself in circulating his thoughts by means of the press?

To be attacked by justice, and condemned to make pecuniary and public reparation, if by unjust abuse he injures any ones honour.

If the abuse be just, is the author still in danger?

Yes, if he cannot prove what he has advanced.

Are men permitted to write against the established religion?

Never; because when a religion is, in any country, admitted as the true religion, it ought to be respected or abjured, and even after abjuration it must not be openly combatted; for though a man may be at liberty with respect to his opinion, he has no right to attack that on which other citizens build their happiness and their hope.

What

What benefit can result from the liberty of the press?

The faculty of exposing all abuses; of propagating good principles; of intimidating the vile; of suggesting good laws: of combating false systems with success; and of extending human knowledge. These great advantages counterpoise so fully the inconveniences which may arise from the licentiousness of the press, that they must not be sacrificed to the fear of seeing too many publications produced by that liberty.

Is the chase permitted?

The chase is permitted to all proprietors on their own possessions; because its object is to extirpate the animals which destroy the harvest; and those who toil, and sow the ground, should be at liberty to prevent the loss of the fruit of their cost and labour.

The exercise of the chase is forbidden then to every man who has no territorial possessions?

Yes, unless he be authorized by a proprietor.

Is the shooting of pigeons allowed?

Yes, but only to the proprietor who sees them on his field, and at the season when it is forbidden to let them range the country.

Are there any circumstances under which men are at liberty to do justice on those whom the public voice has proclaimed to be tyrants, extortioners, or monopolizers?

Such

Such a liberty would be the most frightful of all evils ; since, for one criminal punished by its means, a thousand innocent persons would be exposed to death. It would spread trouble and disorder through society : it would render men sanguinary and ferocious ; and it would continually do violence to the tribunals charged with the punishment or acquittal of those who are accused.

Ought not the bearing of arms to be forbidden ?

It ought to all men who have no established dwelling, and to those who give not a sufficient pledge to the law ; unless it be in the time of war, when every citizen has his life to defend.

What are the duties of man towards man ?

Those which are prescribed by the social state.—Justice to all ; courtesy to his equals ; civility to his superiors ; compassion for the weak ; and charity for the poor.

Is the monopolizing of corn always to be considered as an offence ?

Yes, always when the object in view is to create a scarcity of that most necessary article, and to take advantage of the severest of all wants, for the purpose of obtaining riches.

Are all men who collect much corn to be considered as monopolizers ?

No ; for the man who buys up large quantities of corn, and keeps it by him, only uses the liberty enjoyed by every proprietor. He is unfeeling and cruel,

cruel, if, regardless of the wants of the multitude, he refuses to sell his grain; but he is not criminal for withholding it in the eye of the law, while the law does not require him to sell it. He may deserve the contempt, the hatred of his fellow-creatures, but that is not a reason why his property should be invaded. The only step to be taken by the people, is to represent the affair to those magistrates who are charged with providing provision for those within their respective limits.

Is it legal to trade in corn?

When the motive is pure, this trade is of utility to husbandmen, because it affords them an opportunity of exchanging the produce of their ground: and it is beneficial in time of dearth, because it extends the means of subsistence to places which were without it. To the wisdom of government it pertains to regulate the exportation of corn; but, so long as the exportation is not prohibited, it is criminal even to stop the circulation of an article so necessary to all mankind.

Are all professions equally creditable?

None of those professions which are useful to society dishonour the citizens by whom they are exercised; but such as require superior knowledge, and are difficult in the attainment, ought to be held in most esteem. A liberal profession is superior to a servile one: thus, an historical painter shews talents more worthy of our respect than a house painter;

painter ; a statuary than a stone mason ; and a physician, than a vender of medicines.

Is not the profession of an executioner disgraceful ?

Although the executioner performs one of the functions of justice, as he is the instrument, though the legal one, of the destruction of his fellow-creatures, no man of sensibility would chuse such a profession, and consequently it is incompatible with the public esteem.

Is inequality of fortune an injustice ?

No ; because as men do not all labour, and exert their industry in the same degree, their fortunes cannot be the same. If a general equalization of property were at this moment to take place, we should, in ten years time, find the same inequality existing which we now behold : ill conduct and idleness would infallibly lead to it. Large fortunes are therefore the consequence of labour, of genius, and of œconomy : and these causes are too respectable to admit of our destroying their effect.

By what reflections can the poor console themselves under their misery ?

By saying to themselves, “ My parent left me
 “ nothing : I have gained nothing : it is for me
 “ therefore to experience poverty, and to mitigate
 “ that poverty by labour. If I make some savings,
 “ and if my children increase what I shall leave
 “ them, it will be their turn to become rich, and

“ to be served by, and command others: they will
“ be only men like me, but they will have more
“ leisure, and be more independent. But if they
“ make an ill use of what they may inherit from
“ me, they will fall into indigence: if they are
“ dishonest, they will be despised; and he from
“ whom they will blush at being descended, is now
“ less unhappy than they must then be found.”

What should a just man consider as the circle of his duties?

To obey his father and mother while he is under their protection: to endeavour as early as possible to subsist by his own labour and honest industry: to contribute to the harmony of society by his justice and courage: to render to others the treatment he would receive: to return the kindness he has experienced: to honour his king, cherish his country, and respect the law: to bear no envy towards the rich; no contempt for the poor: to comfort the unhappy: to practice sobriety, that he may as long as possible preserve his life; and to keep himself prepared to behold death without regret, as the event which must put an end to the infirmities of old age.

A P P E N D I X.

DECLARATION OF RIGHTS

AGREED TO AND PUBLISHED

ON THE

TENTH OF OCTOBER, 1774.

THE good people of the several colonies of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Newcastle Kent and Suffex on Delaware, Maryland, Virginia, North Carolina, and South Carolina, alarmed at the arbitrary proceedings of the British parliament and administration, having severally elected deputies to meet and sit in congress in the city of Philadelphia; and those deputies, so chosen, being assembled on the 5th day of September, after settling several necessary preliminaries, proceeded to take into their most serious consideration the best means of attaining redress of grievances. In the first place, they, as Englishmen their ancestors in like cases had done, for asserting and vindicating their rights and liberties, **DECLARE**

That the inhabitants of the English colonies in

VOL. II.

G g

North

North America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts have the following RIGHTS: Resolved *nem. con.*

1. That they are entitled to life, liberty, and property: and have never ceded to any sovereign power whatever, a right to dispose of either without their consent.

2. That our ancestors were, at the time of their emigrating from the mother country, entitled to all the rights, liberties, and immunities, of free and natural born subjects within the realm of England.

3. That by such emigration they neither forfeited, surrendered, nor lost any of those rights.

4. That the foundation of English liberty, and of all free government, is a right in the people to participate in their legislative council; and as the English colonies are not represented, and, from their local and other circumstances, cannot properly be represented in the British parliament, they are entitled to a free and exclusive power of legislation, in their several provincial legislatures, where their right of representation can alone be preserved, in all cases of taxation, and internal polity, subject only to the negative of their sovereign, in such manner as has been heretofore used and accustomed: but from the necessity of the case, and a regard to the mutual interest of both countries, we cheerfully consent to the operation of such acts of the British parliament

parliament as are *bona fide* restrained to the regulation of our external commerce, for the purpose of securing the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members, excluding every idea of taxation, internal or external, for raising a revenue on the subjects in America without their consent.

5. That the respective colonies are entitled to the common law of England, and, more especially to the great and inestimable privilege of being tried by their peers of vicinage, according to the course of that law.

6. That they are entitled to the benefit of such of the English statutes as existed at the time of their colonization, and which they have, by experience, respectively found to be applicable to their several local and other circumstances.

7. That these his majesties colonies are likewise entitled to all the immunities and privileges, granted and confirmed to them by royal charters, or secured by their several codes of provincial laws.

8. That they have a right peaceably to assemble, consider of their grievances, and petition the king, and that all prosecutions, prohibitory proclamations, and commitments for the same are illegal.

That the keeping a standing army in these colonies, in times of peace, without the consent of the legislature of that colony in which such army is kept is against law.

10. That it is indispensibly necessary to good government, and rendered essential by the English constitution, that the constituent branches of the legislature be independent of each other ; that therefore, the exercise of legislative power in several colonies, by a council appointed, during pleasure, by the crown, is unconstitutional, dangerous, and destructive to the freedom of American legislation.

All and each of which, the aforesaid deputies, in behalf of themselves and their constituents, do claim, demand, and insist on, as their indubitable rights, and liberties, which cannot be legally taken from them, altered or abridged by any power whatever, without their own consent, by their representatives in their several provincial legislatures.

Resolved, nem. con. That the following Acts of Parliament are infringements and violations of the rights of the Colonists ; and that the repeal of them is essentially necessary, in order to restore harmony between Great Britain and the American colonies.

Several acts of the British parliament, viz. of the 4 Geo. III. ch. 15. and ch. 34.—5 Geo. III. ch. 25.—6 Geo. ch. 25.—7 Geo. III. ch. 41. and ch. 46.—8 Geo. III. ch. 22.—12 Geo. III. ch. 24. also the Boston port bill, and two others passed in the same session ; and the bill for establishing the Roman catholic religion in the Province of Quebec are here stated ; to the original of which I beg to refer the reader.

A
D E C L A R A T I O N
BY THE
REPRESENTATIVES
OF
THE UNITED STATES OF AMERICA
IN GENERAL CONGRESS ASSEMBLED.

JULY 4. 1776.

WHEN in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature, and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self evident. That all men are created equal.

That they are endowed by their Creator with certain unalienable rights: that among these are life, liberty, and the pursuit of happiness.

G g 3

That

That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed ; and whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. Prudence indeed will dictate, that governments long established should not be changed for light and transient causes ; and accordingly all experience hath shewn, that mankind are disposed to suffer, while evils are sufferable, rather than to right themselves, by abolishing the forms to which they are accustomed ; but when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present — of — is a history of repeated injuries and usurpations ; all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature; a right inestimable to them, and formidable to tyrants only,

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused for a long time after such dissolution to cause others to be erected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these states; for that purpose obstructing the laws

laws for naturalizing of foreigners, refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws, giving his consent to their pretended acts of legislation :

For quartering large bodies of armed troops among us :

For protecting them, by a mock trial, from punishment for any murders they should commit on the inhabitants of these states :

For cutting off our trade with all parts of the world :

For imposing taxes on us without our consent :

For

For depriving us in many cases of the benefit of trial by jury :

For transporting us beyond seas to be tried for pretended offences :

For abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies :

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments :

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens, taken captive

captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring upon the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury.—A prince, whose character is thus marked by every act which can define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts, by their legislature, to extend an unwarrantable jurisdiction over us; we have reminded them of the circumstances of our emigration and settlement here; we have appealed to their native justice and magnanimity; and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and consanguinity. We must therefore acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We,

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by the authority of the good people of these colonies, solemnly publish and declare that these United Colonies are, and of right ought to be, **FREE AND INDEPENDENT STATES**, and that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honour.

*Signed by order and in
behalf of the Congress,*

Attest.

JOHN HANCOCK, President,
CHARLES THOMSON, Secretary.

ARTICLES OF CONFEDERATION

AND

PERPETUAL UNION

BETWEEN

THE STATES OF MASSACHUSETT'S-BAY, NEW-HAMPSHIRE, RHODE-ISLAND and PROVIDENCE PLANTATIONS, CONNECTICUT, NEW-YORK, NEW-JERSEY, PENNSYLVANIA, DELAWARE, MARYLAND, VIRGINIA, NORTH-CAROLINA, SOUTH-CAROLINA, and GEORGIA.

ARTICLE I.

THE stile of this confederacy shall be, "UNITED STATES OF AMERICA."

II. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in congress assembled.

III. The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account

count of religion, sovereignty, trade, or any other pretence whatever.

IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each state shall have free ingress and regress to and from any other state and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state to any other state of which the owner is an inhabitant; provided also that no imposition, duties, or restriction, shall be laid by any State on the property of the United States, or either of them.

If any person guilty of or charged with treason, felony, or other high misdemeanour in any state, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor or executive power of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings

ceedings of the courts and magistrates of every other state.

V. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in congress on the first Monday in November of every year, with a power reserved to each state to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

No state shall be represented in congress by less than two, nor more than seven, members; and no person shall be capable of being a delegate for more than three years, in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or any other for his benefit, receives any salary, fees, or emolument, of any kind.

Each state shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of the states.

In determining questions in the United States in congress assembled, each state shall have one vote.

Freedom of speech and debate in congress shall not be impeached or questioned in any court or place out of congress, and the members of congress shall be protected in their persons from arrests
and

and imprisonments during the time of their going to and from and attendance of congress, except for treason, felony, or a breach of the peace.

VI. No state, without the consent of the United States in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state; nor shall the United States in congress assembled, or any of them, grant any title of nobility.

2. No two or more states shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

3. No state shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by congress to the courts of France and Spain.

4. No vessels of war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary by the United States in congress.

congress assembled for the defence of such state, or its trade; nor shall any body of forces be kept up by any state, in time of peace, except such number only as in the judgment of the United States in congress assembled shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use, in public stores, a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

5. No state shall engage in any war without the consent of the United States in congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay to the United States in congress assembled can be consulted: nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in congress assembled, and then only against the kingdom or state and the subjects thereof against which war has been so declared, and under such regulations as shall be established by the United States in congress assembled, unless such state be infested by pirates; in which case vessels of war may be fitted
out

out for that occasion, and kept so long as the danger shall continue, or until the United States in congress assembled shall determine otherwise.

VII. When land forces are raised by any state for the common defence, all officers of or under the rank of colonel shall be appointed by the legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

VIII. All charges of war, and all other expences that shall be incurred for the common defence or general welfare, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in congress assembled shall from time to time direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the United States in congress assembled.

IX. The United States in congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article; of sending and re-

ceiving ambassadors ; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever : of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated ; of granting letters of marque and reprisal in times of peace ; appointing courts for the trial of piracies and felonies committed on the high seas ; and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of congress shall be appointed a judge of any of the said courts.

2. The United States in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise, between two or more states concerning boundary, jurisdiction, or any other cause whatever ; which authority shall always be exercised in the manner following : — Whenever the legislative or executive authority or lawful agent of any state in controversy with another, shall present a petition to congress, stating the matter in question, and
praying

praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as congress shall direct, shall in the presence of congress be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination: and if either party shall neglect to attend at the day appointed, without shewing reasons which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed in the

manner before prescribed, shall be final and conclusive: and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress, for the security of the parties concerned: provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried, “ well and truly to
“ hear and determine the matter in question, ac-
“ cording to the best of his judgment, without fa-
“ vour, affection, or hope of reward:” provided also, that no state shall be deprived of territory for the benefit of the United States.

3. All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdictions, as they may respect such lands, and the states which passed such grants, are adjusted; the said grants, or either of them, being at the same time claimed to have originated antecedent to such settlement of jurisdiction; shall on the petition of either party to the congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed

scribed for deciding disputes respecting territorial jurisdiction between different states.

4. The United States in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated; establishing and regulating post-offices from one state to another, throughout all the United State,, and exacting such postage on the papers passing through the same, as may be requisite to defray the expences of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

5. The United States in congress assembled shall have authority to appoint a committee, to sit in the recess of congress, to be denominated, *a Committee of the States*, and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing

the general affairs of the United States under their direction ; to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years ; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expences ; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted ; to build and equip a navy ; to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state, which requisition shall be binding ; and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and cloath, arm, and equip them in a soldier-like manner, at the expence of the United States ; and the officers and men so cloathed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled. But if the United States in congress assembled shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall

shall be raised, officered, cloathed, armed, and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same: in which case they shall raise, officer, cloath, arm, and equip, as many of such extra number as they judge can be safely spared; and the officers and men so cloathed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled.

6. The United States in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expences necessary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine states assent to the same: nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in congress assembled.

7. The congress of the United States shall have

H h 4

power

ted into the same, unless such admission be agreed to by nine states.

XII. All bills of credit emitted, monies borrowed, and debts contracted by, or under the authority of congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

XIII. Every state shall abide by the determinations of the United States in congress assembled, on all questions which by this confederation are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a congress of the United States, and be afterwards confirmed by the legislatures of every state.

And whereas it hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in congress, to approve of, and to authorise us to ratify the said articles of confederation and perpetual union : Know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and behalf of our respective constituents, fully and entirely ratify and confirm

confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in congress assembled, on all questions which by the said confederation are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent; and that the union shall be perpetual. In witness whereof, we have hereunto set our hands in congress.

Done at Philadelphia, in the State of Pennsylvania, the 9th day of July, in the year of our Lord 1778, and in the third year of the independence of America.

THE
CONSTITUTION
OF THE
UNITED STATES OF AMERICA.

WE, THE PEOPLE OF THE UNITED STATES, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution of the United States of America.

ARTICLE I.

Sect. 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

Sect. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in
each

each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New-Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New-Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North-Carolina five, South-Carolina five, and Georgia three.

When

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election, to fill such vacancies.

The house of representatives shall choose their speaker and other officers ; and shall have the sole power of impeachment.

Sect. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years ; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year ; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The

ceiving ambassadors ; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever : of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated ; of granting letters of marque and reprisal in times of peace ; appointing courts for the trial of piracies and felonies committed on the high seas ; and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of congress shall be appointed a judge of any of the said courts.

2. The United States in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise, between two or more states concerning boundary, jurisdiction, or any other cause whatever ; which authority shall always be exercised in the manner following : — Whenever the legislative or executive authority or lawful agent of any state in controversy with another, shall present a petition to congress, stating the matter in question, and
praying

day in December, unless they shall by law appoint a different day.

Sect. 5. Each house shall be the judge of elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorised to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy: and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sect. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason,

manner before prescribed, shall be final and conclusive: and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress, for the security of the parties concerned: provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried, “ well and truly to
“ hear and determine the matter in question, ac-
“ cording to the best of his judgment, without fa-
“ vour, affection, or hope of reward:” provided also, that no state shall be deprived of territory for the benefit of the United States.

3. All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdictions, as they may respect such lands, and the states which passed such grants, are adjusted; the said grants, or either of them, being at the same time claimed to have originated antecedent to such settlement of jurisdiction; shall on the petition of either party to the congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed

be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Sect. 8. The congress shall have power

To lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and the general welfare of the United States; but all duties, imposts and excises, shall be uniform throughout the United States;

the general affairs of the United States under their direction ; to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years ; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expences ; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted ; to build and equip a navy ; to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state, which requisition shall be binding ; and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and cloath, arm, and equip them in a soldier-like manner, at the expence of the United States ; and the officers and men so cloathed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in congress assembled. But if the United States in congress assembled shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall

tion of money to that use, shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia, to execute the laws of the union, suppress insurrections, and repel invasions;

To provide for organizing, arming, and disciplining the militia; and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States; and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this consti-

power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

X. The committee of the states, or any nine of them, shall be authorized to execute, in the recesses of congress, such of the powers of congress as the United States in congress assembled, by the consent of nine States, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states, in the congress of the United States assembled, is requisite.

XI. Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this union: but no other colony shall be admitted

ed States : And no person holding any office of profit or trust under them, shall, without the consent of congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Sect. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

No state, shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolute necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and controul of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

A R T I C L E II.

Sect. 1. The executive power shall be vested in a president of the United States of America. He

confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in congress assembled, on all questions which by the said confederation are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent; and that the union shall be perpetual. In witness whereof, we have hereunto set our hands in congress.

Done at Philadelphia, in the State of Pennsylvania, the 9th day of July, in the year of our Lord 1778, and in the third year of the independence of America.

est on the list the said house shall in like manner chuse the president. But in chusing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall chuse from them, by ballot, the vice-president.

The congress may determine the time of chusing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States,

No person, except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the pre-

each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New-Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New-Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North-Carolina five, South-Carolina five, and Georgia three.

When

two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

Sect. 3. He shall from time to time give to the congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper: he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Sect. 4. The president, vice-president, and all civil officers of the United States, shall be removed
from

The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall chuse their other officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

Seet. 4. The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places for chusing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday

shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the congress shall make.

The trial of all crimes, except in case of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

Sect. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

Sect. 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which
such

such acts, records, and proceedings shall be proved, and the effect thereof.

Sect. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labour in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

Sect. 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States: and nothing in this constitution shall

shall be so construed as to prejudice any claims of the United States, or of any particular state.

Sect. 4. The United States shall guarantee to every state in this union, a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislature of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; Provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner effect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be

be as valid against the United States, under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation; to support this constitution: but no religious test shall ever be required as a qualification to any office or public trust under the United States.

A R T I C L E VII.

The ratification of the conventions of nine states; shall be sufficient for the establishment of this constitution between the states so ratifying the same.

DONE in CONVENTION, by the unanimous consent of the states present, the seventeenth day of September; in the year of our Lord one thousand seven hundred and eighty seven, and of the Independence of the United States

*States of America the twelfth. In witness whereof
we have hereunto subscribed our names.*

GEORGE WASHINGTON, President,
and Deputy from Virginia.

NEW-HAMPSHIRE

*John Langdon,
Nicholas Gilman.*

MASSACHUSETTS:

*Nathaniel Gorham,
Rufus King.*

CONNECTICUT.

*William Samuel Johnson,
Roger Sherman.*

NEW-YORK.

Alexander Hamilton.

NEW-JERSEY:

*William Livingston,
David Brearley,
William Paterson,
Jonathan Dayton.*

PENNSYLVANIA.

*Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimons,
Jared Ingersoll,
James Wilson,
Gouverneur Morris.*

DELAWARE.

*George Read,
Gunning Bedford, jun.
John Dickinson,
Richard Basset,
Jacob Broom,*

MARYLAND.

*James M^r Henry,
Daniel of St Thomas Jenifer,
Daniel Carroll.*

VIRGINIA.

*John Blair,
James Madison, jun.*

NORTH-CAROLINA.

*William Blount,
Richard Dobbs Spaight,
Hugh Williamson.*

SOUTH-CAROLINA.

*John Rutledge,
Charles Cotesworth Pickens,
Charles Pickney,
Pierce Butler.*

GEORGIA.

*William Few,
Abraham Baldwin.*

ATTEST.

WILLIAM JACKSON, *Secretary.*

In

be as valid against the United States, under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation; to support this constitution: but no religious test shall ever be required as a qualification to any office or public trust under the United States.

A R T I C L E VII.

The ratification of the conventions of nine states; shall be sufficient for the establishment of this constitution between the states so ratifying the same.

DONE in CONVENTION, by the unanimous consent of the states present, the seventeenth day of September; in the year of our Lord one thousand seven hundred and eighty seven, and of the Independence of the United States

States of America the twelfth. In witness whereof
we have hereunto subscribed our names.

GEORGE WASHINGTON, President,
and Deputy from Virginia.

NEW-HAMPSHIRE

John Langdon,
Nicholas Gilman.

MASSACHUSETTS

Nathaniel Gorham,
Rufus King.

CONNECTICUT

William Samuel Johnson,
Roger Sherman.

NEW-YORK

Alexander Hamilton.

NEW-JERSEY.

William Livingston,
David Brearley,
William Paterson,
Jonathan Dayton.

PENNSYLVANIA

Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzmaurice,
Jared Ingersoll,
James Wilson,
Gouverneur Morris.

DELAWARE

George Read,
Gunning Bedford, jun.
John Dickinson,
Richard Bassett,
Jacob Broom.

MARYLAND.

John M. Smith,
James A. Smith, Jr.,
James Smith.

VIRGINIA.

John Jay,
John Marshall, Jr.

NORTH-CAROLINA

William Hooper,
Rufus Lane, Esq.,
Ezra Ripley.

SOUTH-CAROLINA.

John Rutledge,
Charles Cotesworth Pinckney,
Charles Pinckney,
Parker B. Conner.

MISSISSIPPI.

William Pickens,
Arthur Pickens.

ATTEST.

WILLIAM



shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows :

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress : but no senator or representative, or person holding any office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each ; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number, be a majority of the whole number of electors appointed ; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately chuse by ballot one of them for president ; and if no person have a majority, then from the five highest
est

assigned; that the senators should appoint a president of the senate, for the sole purpose of receiving, opening and counting the votes for president; and, that after he should be chosen, the congress, together with the president, should, without delay, proceed to execute this constitution.

By the unanimous order of the Convention,

GEORGE WASHINGTON, President:

William Jackson, Secretary.

IN CONVENTION, September 17th, 1787.

Sir,

WE have now the honour to submit the consideration of the United States in congress assembled, the constitution which has appeared to us the most adviseable:

The friends of our country have long seen and desired, that the power of making war, peace, and treaties, that of levying money and regulating commerce, and the correspondent, executive, and judicial authorities, should be fully and effectually vested in the general government of the union; but the impropriety of delegating such extensive trust to one body of men is evident—Hence results the necessity of a different organization.

It is obviously impracticable in the foederal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all—Individuals entering

sident and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive, within that period, any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation :

“ I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend, the constitution of the United States.”

Sect. 2. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States ; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided

two-

that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.—With great respect, we have the honour to be, Sir, your excellency's most obedient and humble servants.

GEORGE WASHINGTON, *President.*

By the unanimous order of the Convention.

*His Excellency the President of Congress *.*

* When I formed the design of giving in an Appendix, all the documents necessary to a perfect knowledge of the present government of America, I was sensible that room could not be allowed for inserting at length the constitutions of all the separate states; I therefore determined to abridge them, and had made some progress in the task, when an American work, by Mr. Jedidiah Morse, fell into my hands, in which I found all these constitutions abridged with so much accuracy and conciseness, that, after comparing his abridgements, article by article, with the originals, I was induced to adopt the greater part of them, in a persuasion that they could not be better done.

A

DECLARATION OF RIGHTS

OF THE

INHABITANTS

OF THE

COMMONWEALTH of MASSACHUSETTS.

I. * **A**LL men are born free and equal, and have certain natural, essential, and unalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

II. It is the right as well as the duty of all men

* As the declaration of rights of the other states are exactly similar in sense to this of the commonwealth of Massachusetts, though in some of them the articles are differently arranged and divided, its being here given at length renders their insertion, even in an abridged state, wholly unnecessary; they will therefore be omitted in the accounts of the constitutions,

in

in society, publicly, and at stated seasons, to worship the Supreme Being, the Great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

III. As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of God, and of public instructions in piety, religion, and morality; therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorise and require, and the legislature shall, from time to time, authorise and require the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expence, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers of piety, religion, and morality, in all

such acts, records, and proceedings shall be proved, and the effect thereof.

Sect. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labour in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

Sect. 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States: and nothing in this constitution shall

shall be so construed as to prejudice any claims of the United States, or of any particular state.

Sect. 4. The United States shall guarantee to every state in this union, a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislature of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; Provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner effect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be

be as valid against the United States, under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation; to support this constitution: but no religious test shall ever be required as a qualification to any office or public trust under the United States.

A R T I C L E VII.

The ratification of the conventions of nine states; shall be sufficient for the establishment of this constitution between the states so ratifying the same.

DONE in CONVENTION, by the unanimous consent of the states present, the seventeenth day of September; in the year of our Lord one thousand seven hundred and eighty seven, and of the Independence of the United States

*States of America the twelfth. In witness whereof
we have hereunto subscribed our names.*

GEORGE WASHINGTON, President,
and Deputy from Virginia.

NEW-HAMPSHIRE

*John Langdon,
Nicholas Gilman.*

MASSACHUSETTS:

*Nathaniel Gorham,
Rufus King.*

CONNECTICUT.

*William Samuel Johnson,
Roger Sherman.*

NEW-YORK.

Alexander Hamilton.

NEW-JERSEY:

*William Livingston,
David Brearley,
William Paterson,
Jonathan Dayton.*

PENNSYLVANIA.

*Benjamin Franklin,
Thomas Mifflin,
Robert Morris,
George Clymer,
Thomas Fitzsimons,
Jared Ingersoll,
James Wilson,
Gouverneur Morris.*

DELAWARE:

*George Read,
Gunning Bedford, jun.
John Dickinson,
Richard Basset,
Jacob Broom,*

MARYLAND.

*James M^r Henry,
Daniel of St Thomas Jenifer,
Daniel Carroll.*

VIRGINIA.

*John Blair,
James Madison, jun.*

NORTH-CAROLINA:

*William Blount,
Richard Dobbs Spaight,
Hugh Williamson.*

SOUTH-CAROLINA:

*John Rutledge,
Charles Cotesworth Pickens,
Charles Pickney,
Pierce Butler.*

GEORGIA.

*William Few,
Abraham Baldwin.*

ATTEST.

WILLIAM JACKSON, Secretary.

In

**IN CONVENTION, Monday, September 17th,
1787.**

Resolved, **THAT** the preceding constitution be laid before the United States in congress assembled, and that it is the opinion of this convention, that it should afterwards be submitted to a convention of delegates, chosen in each state by the people thereof, under the recommendation of its legislature, for their assent and ratification; and that each convention assenting to, and ratifying the same, should give notice thereof to the United States in congress assembled.

Resolved, That it is the opinion of this convention, that as soon as the conventions of nine states shall have ratified this constitution, the United States in congress assembled should fix a day on which electors should be appointed by the states which shall have ratified the same, and a day on which the electors should assemble to vote for the president, and the time and place for commencing proceedings under this constitution. That after such publication the electors should be appointed, and the senators and representatives elected: that the electors should meet on the day fixed for the election of the president, and should transmit their votes certified, signed, sealed, and directed, as the constitution requires, to the secretary of the United States in congress assembled; that the senators and representatives should convene at the time and place assigned;

assigned; that the senators should appoint a president of the senate, for the sole purpose of receiving, opening and counting the votes for president; and, that after he should be chosen, the congress, together with the president, should, without delay, proceed to execute this constitution.

By the unanimous order of the Convention,

GEORGE WASHINGTON, President.

William Jackson, Secretary.

In CONVENTION, September 17th, 1787:

Sir,

WE have now the honour to submit the consideration of the United States in congress assembled, the constitution which has appeared to us the most adviseable:

The friends of our country have long seen and desired, that the power of making war, peace, and treaties, that of levying money and regulating commerce, and the correspondent, executive, and judicial authorities, should be fully and effectually vested in the general government of the union; but the impropriety of delegating such extensive trust to one body of men is evident—Hence results the necessity of a different organization.

It is obviously impracticable in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all—Individuals entering

into society, must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several states as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject, we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each state in the convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every state is not perhaps to be expected; but each will doubtless consider, that had her interests been alone consulted, the consequences might have been particularly disagreeable or injurious to others; that

that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.—With great respect, we have the honour to be, Sir, your excellency's most obedient and humble servants.

GEORGE WASHINGTON, *President.*

By the unanimous order of the Convention.

*His Excellency the President of Congress *.*

* When I formed the design of giving in an Appendix, all the documents necessary to a perfect knowledge of the present government of America, I was sensible that room could not be allowed for inserting at length the constitutions of all the separate states; I therefore determined to abridge them, and had made some progress in the task, when an American work, by Mr. Jedidiah Morse, fell into my hands, in which I found all these constitutions abridged with so much accuracy and conciseness, that, after comparing his abridgements, article by article, with the originals, I was induced to adopt the greater part of them, in a persuasion that they could not be better done.

A

DECLARATION OF RIGHTS

OF THE

INHABITANTS

OF THE

COMMONWEALTH of MASSACHUSETTS.

I. * **A**LL men are born free and equal, and have certain natural, essential, and unalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, professing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

II. It is the right as well as the duty of all men

* As the declaration of rights of the other states are exactly similar in sense to this of the commonwealth of Massachusetts, though in some of them the articles are differently arranged and divided, its being here given at length renders their insertion, even in an abridged state, wholly unnecessary; they will therefore be omitted in the accounts of the constitutions.

in

in society, publicly, and at stated seasons, to worship the Supreme Being, the Great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

III. As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of God, and of public instructions in piety, religion, and morality; therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorise and require, and the legislature shall, from time to time, authorise and require the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expence, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers of piety, religion, and morality, in all

cases where such provision shall not be made voluntarily.

And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects, an attendance upon the instructions of the public teachers as aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Provided notwithstanding, that the several towns, parishes, and precincts, and other bodies-politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

And all monies paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said monies are raised.

And every denomination of Christians demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law : and no subordination of any
one

one sect or denomination to another shall ever be established by law.

IV. The people of this commonwealth have the sole and exclusive right of governing themselves as a free, sovereign, and independent state; and do, and for ever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

VI. No man, or corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

VII. Government is instituted for the common good; for the protection, safety, prosperity, and happiness

happiness of the people ; and not for the profit, honour, or private interest of any one man, family, or class of men ; therefore, the people alone have an incontestible, unalienable, and inalienable right to institute government ; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods, and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life ; and to fill up vacant places by certain and regular elections and appointments.

IX. All elections ought to be free, and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected for public employments.

X. Each individual of the society has a right to be protected by it, in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expence of this protection ; to give his personal service, or an equivalent, when necessary : but no part of the property of any individual can, with justice, be taken from him, or applied

applied to public uses, without his own consent, or that of the representative body of the people : in fine, the people of this commonwealth are not controulable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigences require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it ; compleatly, and without any denial ; promptly, and without delay ; conformably to the laws.

XII. No subject shall be held to answer for any crime or offence, until the same is fully and plainly, substantially and formally, described to him ; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favourable to him ; to meet the witnesses against him face to face, and to be fully heard in his defence by himself or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his
2 life,

life, liberty, or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law, that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

XIII. In criminal prosecutions, the verification of facts in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

XIV. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation: and if the order in a warrant to a civil officer, to make search in all suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued, but in cases and with the formalities prescribed by the laws.

XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be

be held sacred, unless, in causes arising on the high seas, and such as relate to mariners wages, the legislature shall hereafter find it necessary to alter it.

XVI. The liberty of the press is essential to the security of freedom in a state; it ought not, therefore, to be restrained in this commonwealth.

XVII. The people have a right to keep and to bear arms for the common defence. And as in time of peace armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in exact subordination to the civil authority, and be governed by it.

XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of all laws necessary for the good administration of the commonwealth.

XIX. The

XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives; and to request of the legislative body, by the way of addresses, petitions or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXI. The freedom of deliberation, speech, and debate, in either House of the Legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

XXIII. No subsidy, charge, tax, impost, or duties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.

XXIV. Laws

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony, by the legislature.

XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel and unusual punishments.

XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No person can in any case be subjected to law-martial, or to any penalties or pains by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent, as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of
the

the rights of the people, and of every citizen, that the Judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honourable salaries ascertained and established by standing laws.

XXX. In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end it may be a government of laws, and not of men.

ABRIDGMENT OF THE CONSTITUTION OF THE SAME STATE.

The power of legislation is lodged in a general court, consisting of two branches, viz. a senate and a house of representatives, each having a negative upon the other. They meet annually on the last Tuesday in May. No act can be passed without the approbation of the governor, unless two-thirds of both branches are in favour of it. Either branch, or the governor and council, may require the opinion of the justices of the supreme judicial court, upon important questions. Senators are chosen by districts, of which there cannot

be less than thirteen. The number of counsellors and senators, for the whole commonwealth, is forty; the number of each district is in proportion to their public taxes; but no district is to be so large, as to have more than six. Sixteen senators make a quorum. The representatives are chosen by the several towns, according to their numbers of rateable polls. For 150 polls one is elected; and for every addition of 225, an additional one. Their travelling expences to and from the general court, are defrayed by the public, but their wages for attendance are paid by their own towns. Impeachments, for misconduct in office, are made by the representatives, and tried by the senate; but the judgment can go only to removal from office and future disqualification. Money bills originate in the house of representatives, but may be altered by the senate. Representatives are privileged from arrests on mesne process. Sixty members make a quorum. The supreme executive authority is vested in a governor, who is elected annually by the people, and has a council consisting of the lieutenant-governor, and nine gentlemen chosen out of the forty, who are returned for counsellors and senators. Five counsellors make a quorum. The governor is commander of all the military force of the commonwealth. He may convene the general court, may adjourn them, when the two branches disagree about the time, and in their recess, may
prorogue

R H O D E I S L A N D.

THE constitution of this state is founded on the charter granted by Charles II. in the fourteenth year of his reign; and the frame of government was not essentially altered by the revolution. The legislature of the state consists of two branches—a senate or upper house, composed of ten members, called in the charter *assistants*—and a house of representatives, composed of deputies from the several towns. The members of the legislature are chosen twice a-year; and there are two sessions of this body annually, viz. on the first Wednesday in May, and the last Wednesday in October.

The supreme executive power is vested in a governor, or, in his absence, in the deputy-governor, who are chosen annually in May by the suffrages of the people. The governor presides in the upper house, but has only a single voice in enacting laws.

There is one supreme judicial court, composed of five judges, whose jurisdiction extends over the whole state, and who hold two courts annually in each county.

In each county, there is an inferior court of common pleas and general sessions of the peace, held twice a-year for the trial of causes not capital,
arising

tenant-governor, or justice of the supreme court can hold no other office. No man can hold two of these offices, judge of probate, sheriff, register. No justices of the supreme court, secretary, attorney-general, treasurer, judge of probate, instructor of Harvard College, clerk, register, sheriff, or custom-officer can have a seat in the legislature. The privilege of Habeas Corpus cannot be suspended more than a year at one time. In 1795, if two-thirds of the qualified voters desire it, a convention shall be called to revise the constitution.

STATE OF NEW HAMPSHIRE.

THE constitution of the State of Massachusetts Bay was adopted in this state in the year 1784, with very few alterations, except such as were unavoidable from local circumstances. Among these few however there is one of some consequence, it is that in this state the president has not the power of negativing all bills and resolves of the senate and house of representatives, and preventing their passing into laws, unless approved of by two thirds of the members present.

The supreme magistrate is styled **PRESIDENT OF THE STATE OF NEW HAMPSHIRE**; he is honoured with the title of Excellency, and it is he who presides in the senate.

criminal, and to ordain and establish laws for settling the forms and ceremonies of government. By these laws the general assembly is divided into two branches, called the upper and lower houses. The upper house is composed of the governor, deputy-governor, and assistants. The lower house, of the representatives of the people. No law can pass without the concurrence of both houses. The judges of the superior court hold their offices during the pleasure of the general assembly. The judges of the county courts, and justices, are annually appointed. Sheriffs are appointed by the governor and council, without limitation of time. The governor is captain-general of the militia; the deputy-governor, lieutenant-general. All other military officers are appointed by the assembly, and commissioned by the governor.

The mode of electing the governor, deputy-governor, assistants, treasurer, and secretary, is as follows: The freemen in the several towns meet on the Monday next after the first Tuesday in April, annually, and give in their votes for the persons they choose for the said offices respectively, with their names written on a piece of paper, which are received and sealed up by a constable in open meeting, the votes for each office by themselves, with the name of the town and office written on the outside. These votes, thus sealed, are sent to the general assembly in May, and there counted by a committee

arising within the county, from which an appeal lies to the supreme court.

The justices of the peace, as in other states, have cognizance of small causes ; and since the revolution their powers have been enlarged.

THE STATE OF CONNECTICUT.

CONSTITUTION.

THE charter granted to the people of Connecticut by Charles the II. on the 23d of April, 1662, by which they were declared to be a body corporate and politic, has been adopted as the basis of their present government, in all points which were not found incompatible with independency.

The supreme legislative authority of this state is, conformable to this charter, vested in a governor, deputy-governor, twelve assistants or counsellors, and the representatives of the people, styled the *General Assembly*. The governor, deputy-governor, and assistants, are annually chosen by the freemen in the month of May. The representatives (their number not to exceed two from each town) are chosen by the freemen twice a-year, to attend the two annual sessions, on the second Thursdays of May and October. This assembly has power to erect judicatories, for the trial of causes civil and

county is allowed. They have cognizance of small offences, and may punish by fine, not exceeding forty shillings, or whipping, not exceeding ten stripes, or sitting in the stocks. There are eight county courts in the state, held in the several counties by one judge and four justices of the quorum, who have jurisdiction of all criminal cases, arising within their respective counties, where the punishment does not extend to life, limb, or banishment. They have original jurisdiction of all civil actions which exceed the jurisdiction of a justice. Either party may appeal to the superior court, if the demand exceeds twenty pounds, except on bonds or notes vouched by two witnesses.

There are several courts of probate in each county, consisting of one judge. The peculiar province of this court, is the probate of wills, granting administration on intestate estates, ordering distribution of them, and appointing guardians for minors, &c. An appeal lies from any decree of this court to the superior court.

The superior court consists of five judges. It has authority in all criminal cases extending to life, limb, or banishment, and other high crimes and misdemeanors; to grant divorces, and to hear and determine all civil actions brought by appeal from the county courts, or the court of probate, and to correct the errors of all inferior courts. This is a circuit court, and has two stated sessions in each county

committee from both houses. All freemen are eligible to any office in government. In choosing assistants, twenty persons are nominated, by the vote of each freeman, at the freeman's meeting for choosing representatives in September annually. These votes are sealed up, and sent to the general assembly in October, and are there counted by a committee of both houses, and the twenty persons who have the most votes stand in nomination; out of which number, the twelve who have the greatest number of votes, given by the freemen at their meeting in April, are, in May, declared assistants in the manner above-mentioned. The qualifications of freemen are, maturity in years—quiet and peaceable behaviour—a civil conversation, and freehold estate to the value of forty shillings per annum, or forty pounds personal estate in the list, certified by the select men of the town; it is necessary, also, that they take the oath of fidelity to the state. Their names are enrolled in the town-clerk's office, and they continue freemen for life, unless disfranchised by sentence of the superior court, on conviction of misdemeanour.

The courts are as follow: The justices of the peace, of whom a number are annually appointed in each town by the general assembly, have authority to hear and determine civil actions, where the demand does not exceed four pounds. If the demand exceed forty shillings, an appeal to the

authorities; yet the judges do not consider them as conclusively binding, unless founded on solid reasons which will apply in this state, or sanctioned by concurrent adjudications of their own courts.

The feudal system of descents was never adopted in this state. All the real estate of intestates is divided equally among the children, males and females, except that the eldest son has a double portion. And all estates given in tail, must be given to some person then in being, or to their immediate issue, and shall become fee simple estates to the issue of the first donee in tail. The widow of an intestate is entitled to a third part of the personal estate for ever, and to her dower, or third part of the houses and lands belonging to the intestate at the time of his death, during her life.

STATE OF NEW YORK.

CONSTITUTION.

THE supreme legislative powers are vested in a senate and assembly. The members of the senate are elected by the freeholders of the state, who possess freehold estates to the value of one hundred pounds clear of debts. For the purpose of electing senators, the state is divided into four great districts, each of which chuses a certain number.

The

The southern district comprehends the counties of New York, Suffolk, West Chester, King's, Queen's, and Richmond, which among them elect nine senators. The middle district includes the counties of Dutchess, Ulster, and Orange, which elect six senators. The same number are elected by the western district, which contains only the two counties of Albany and Montgomery: and three senators are elected by the eastern district, which is composed of the counties of Washington, Cumberland, and Gloucester.

These twenty-four senators are divided by lot into four classes, six in each class, and numbered, first, second, third, and fourth. The seats of the first class are vacated at the expiration of one year---the second, at the expiration of the next, &c. and their places filled by new elections. Thus, a small change is made in the senate every year; but three-fourths of the members remaining preserve a knowledge of the business of a former session. A majority of the senate is necessary to do business, and each branch of the legislature has a negative upon the other.

The legislature can at any time alter this division of the state for the choice of senators; and an increase of electors in any district, to the amount of one twenty-fourth of the electors in the whole state, entitles the district to another senator. But the number of senators can never exceed one hundred.

The

The assembly of the state is composed of representatives from the several counties, chosen annually in May, in the following proportion :

For the city and county of New-York, nine.

For the city and county of Albany, seven.

For Dutchess,	7	For Richmond	2
West Chester	6	Montgomery,	6
Ulster	6	Washington } and Clinton, }	4
Suffolk	5	Columbia	3
Queen's	4	Cumberland	3
Orange	4	Gloucester	2
King's	2		

By the constitution, however, it is ordered, that at the end of seven years after the termination of the late war, a census of the electors and inhabitants shall be taken, and the representation apportioned according to the number of electors in each county.

Every male inhabitant of full age, who has resided in the state six months preceding the day of election, and possessing a freehold to the value of twenty pounds, in the county where he is to give his vote, or has rented a tenement therein of the yearly value of forty shillings, and has been rated and actually paid taxes, is entitled to vote for representatives in assembly. The freedom of the cities of New-York and Albany likewise entitles a person to the privilege of voting for members of assembly in the city or county where he resides. The method of voting is now by ballot, but subject to alter-

alteration by the legislature. The house of assembly, a majority of which is necessary to proceed to business, chooses its own speaker, and is a judge of its own privileges.

In all debates on great questions, the house resolves itself into a committee of the whole house, the speaker leaves the chair, and a chairman is appointed for the occasion. After the business is completed, the committee rises, the speaker takes the chair, and the chairman reports to the house the proceedings of the committee.

The number of representatives is limited to three hundred. The present number is sixty-five.

The supreme executive power of the state is vested in a governor, (in whose absence a deputy-governor is appointed to serve) chosen once in three years by the freemen of the state. The lieutenant-governor is, by his office, president of the senate; and, upon an equal division of voices, has a casting vote; but he has no voice on other occasions. The governor has not a seat in the legislature; but as a member of the council of revision and council of appointment, he has a vast influence in the state.

The council of revision is composed of the chancellor, the judges of the supreme court, or any of them, and the governor. This council is empowered to revise all bills which have passed the two houses of the legislature, and if it shall appear to the council that such bills ought not to pass into laws,

laws, they must be returned to the house in which they originated, with the objections of the council. The house must then proceed to reconsider the bills, with the objections, and if, after this, two-thirds of the house agree to the bills, they are to be sent to the other house, where they must be reconsidered, and the assent of two-thirds of the members pass them into laws. But if a bill is not returned in ten days, it becomes a law of course.

The subordinate officers of the state are appointed by the *council of appointment*, which is composed of one senator from each district, to be chosen annually by the legislature, with the governor, or, in his absence, the lieutenant-governor, or the president of the senate, who has a casting vote only.

All military officers hold their commissions during pleasure. The chancellor, the judges of the supreme court, and the first judge of each county court, hold their offices during good behaviour. The officers can hold no other office at the same time, except that of delegate to congress.

Sheriffs and coroners are appointed annually, and can serve but four years successively.

A court of errors and impeachment is instituted, composed of the president of the senate, the senators, chancellor, and judges of the supreme court, or the major part of them, under the regulation of the legislature. The power of impeachment is vested in
in

in the house of representatives, and the members on trial must be sworn.

Besides the court of errors and impeachment, there is, First, a *court of chancery*, consisting of a chancellor, appointed by the council of appointment, who holds his office during good behaviour, or until he arrive at the age of sixty years. Secondly, a *supreme court*, the judges of which are appointed in the same manner, and for the same time, as the chancellor. This is a circuit court.—Thirdly, *county courts*, held in each county, the judges of which are appointed in the manner above mentioned, and the first judge holds his office during good behaviour. Besides these, there are the justices' courts, court of probates, court of admiralty, court of exchequer, a court of oyer and terminer and general goal delivery, and courts of quarter sessions.

The practice in the supreme court, to which an appeal lies from the courts below, is in imitation of the courts of common pleas and king's bench in England.

STATE OF NEW-JERSEY.

CONSTITUTION..

THE government is vested in a governor, legislative council, and general assembly. The governor is annually chosen by the council and assembly

jointly, and is styled *governor and commander in chief in and over the state of New-Jersey, and the territories thereunto belonging, chancellor and ordinary in the same.* The legislative council is composed of one member from each county, chosen annually by the people. They must be worth one thousand pounds in real and personal estate within the county, and have been freeholders and inhabitants of the counties they represent for one year. The general assembly is composed of three members from each county, chosen as above; each of them must be worth five hundred pounds, in real and personal estate within the county, and have been freeholders and inhabitants as above. All these, on taking their seats in the legislature, must swear “that he will not assent
 “to any law, vote, or proceeding, *which shall ap-*
 “*pear to him* injurious to the public welfare of the
 “state, or that shall annul or repeal that part of the
 “constitution which establishes annual elections,
 “nor that part respecting trial by jury, nor that
 “part which secures liberty of conscience.”

The governor sits in, and presides over the legislative council, and has a casting vote in their debates. His privy or executive council, is composed of any three members of the legislative council; and the governor and any seven members of the council are a court of appeals in the last resort, as to points of law in civil cases; and possess a power of pardoning criminals in all cases whatsoever. The

council chuse one of their members to be vice president, who, when the governor is absent from the state, possesses the supreme executive power. The council may originate any bills, excepting preparing and altering any money bill, which is the sole prerogative of the assembly. In every other respect their powers are equal. Every bill is read three times in each house. None of the judges of the supreme court, or other courts, sheriffs, or any person possessed of any post of profit under the governor, except justices of the peace, is entitled to a seat in the assembly. The estate of a suicide is not forfeited for his offence.

The courts of justice in this state are, First, *justices courts*. A competent number of persons are appointed in each county by the council and assembly, in joint meeting, who are called justices of the peace, and continue in office five years. These, besides being conservators of the peace, agreeably to the English laws, are authorized to hold courts for the trial of causes under twelve pounds. From this court, persons aggrieved, may appeal to the quarter sessions.

Secondly, *Courts of quarter sessions of the peace*, are held quarterly in every county, by at least three of the justices. This court takes cognizance of breaches of the peace, and is generally regulated by the rules of the English law.

Thirdly,

Thirdly, *Courts of common pleas*, which are held quarterly, by judges appointed for that purpose, in the same manner as the justices of the peace, and who are commonly of their number, and hold their commissions five years. This court may be held by a single judge, and has cognizance of demands to any amount, and is constructed on, and governed by the principles of English laws.

Fourthly, *Supreme courts*, which are held four times a year, at Trenton, by three judges appointed for that purpose, who hold their offices three years, but one judge only is necessary to the holding this court. This court has cognizance of all actions, both civil and criminal throughout the state, having the united authority of the courts of King's Bench, Common Pleas, and Exchequer in England. The courts of oyer and terminer and nisi prius, commonly held once a year in each county, for the trial of causes arising in the county, and brought to issue in the supreme court, are properly branches of this court, and are held by one of the judges of it, except that in the courts of oyer and terminer, some of the gentlemen of the county are always added in the commission, as assistants to the judge; but they cannot hold the court without him.

Fifthly, *Orphan's courts*, lately established by act of assembly, are held by the judges of the court of
common

common pleas, *ex officio*, and have cognizance of all matters relating to wills; administrations, &c.

Sixthly, *Court of chancery*, held by the governor *ex officio*, always open. It is a court of law and equity, founded on the same principles, and governed by the same rules as the court of chancery in England.

Seventhly, *High court of errors and appeals*, composed of the governor, and seven of the council, and is a court of appeals in the last resort, in all cases of law.

All the English laws which had been practised upon in the state, and which were not repugnant to revolution principles, were adopted by the constitution, and very few alterations of consequence have since been made; except in the descent of real estates, which, instead of descending to the eldest son, agreeably to the old feudal system, as formerly, are now divided (where there is no will) equally among the children, both male and female, except that the eldest son has two shares.

STATE OF PENNSYLVANIA.

CONSTITUTION.

THE legislative powers are wholly vested in a single body of men styled *The general assembly of representative of the freemen of Pennsylvania*. The qualifica-

tion required to render a person eligible to this assembly is, two years residence in the city or county for which he is chosen. No member of the house can hold any other office, except in the militia.

The qualifications of the electors, are, full age, and one year's residence in the state, with payment of public taxes during that time. But the sons of freeholders are intitled to vote for representatives, without any qualification, except full age.

No man can be elected as a member of the assembly more than *four* years in *seven*.

The representatives are chosen annually on the second Tuesday in October, and they meet on the fourth Monday of the same month. A quorum of the house consists of two thirds of the number of members elected; and the members, before they take their seats, are obliged to take an oath or affirmation of fidelity to the state; and also subscribe a declaration or test, acknowledging their belief in one God, and the inspiration of the scriptures, of the Old and New Testament. The house chuse their own speaker, who, in the transaction of business, never leaves the chair. A journal of the proceedings of the assembly is published regularly, and any member may insert the reasons of his vote upon the minutes of the house. To prevent hasty determinations on matters of importance, all bills of a public nature are printed before the last reading, and, except in cases of necessity, are not passed
into

into laws before the next session. The power of impeachment is vested in the general assembly.

The supreme executive power is lodged in a president, and a council consisting of a member from each county. The president is elected annually by the joint ballot of the assembly and council, and from the members of council. A vice president is chosen at the same time.

The counsellors are chosen by the freemen, every third year, and having served three years, they are ineligible for the four succeeding years. The appointments of one third only of the members expire every year, by which rotation no more than one-third can be new members. A counsellor is, by his office, a justice of the peace for the whole state. The president and council form a court for the trial of impeachments.

The council meet at the same time and place with the general assembly.

The president and council appoint and commission judges of courts, naval officers, judge of the admiralty, attorney general, and other officers, the appointment of whom is not expressly vested in the people or general assembly. But the freemen chuse the justices of peace, the colonels of militia, and the inferior military officers, and make a return of the persons elected, to the president and council, who are empowered to commission them. The justices of peace hold their commissions for seven years, removeable however for misconduct by the general assembly. A justice, while in office,

M m s

cannot

cannot be a representative in assembly, nor take any fees but such as shall be allowed by the legislature.

The judges of the supreme court hold their office for seven years, and at the end of that term, may be re-appointed. They have a fixed salary, and are not permitted to take any fees or perquisites, or to hold any other office, civil or military.

Courts of common pleas, sessions and orphans courts, are held quarterly in each city and county.

The supreme court, and courts of common pleas, have the powers of chancery courts, so far as is necessary for the perpetuating of testimony, obtaining evidence from places out of the state, and the care of the persons and estates of those who are *non compos mentis*.

Sheriffs and coroners are chosen annually by the freemen; but they can serve but three successive years, at the end of which they are ineligible during four years.

A register's office for the probate of wills, and granting letters of administration, and an office for recording of deeds, are kept in each city and county: the officers are appointed by the general assembly, removeable at their pleasure, and commissioned by the president and council.

The constitution of this state ordains, that the legislature shall regulate entails in such a manner as to prevent perpetuities.

Any foreigner of a good character may purchase
and

and hold lands and other property, having first taken the oath of allegiance; and a years residence entitles him to the privileges of a natural born subject; except that of being eligible to a seat in the legislature.

A *council of censors*, composed of two members from each county, chosen by the freemen, on the second Tuesday of October every seventh year, is instituted for the purpose of enquiring whether the constitution has been preserved inviolate—whether the different branches of government have performed their duty as guardians of the people—whether the public taxes have been justly laid and collected, and in what manner the monies have been disposed of—and also whether the laws have been duly executed. For these purposes, they have power to send for persons, papers, and records—to pass public censures, order impeachments, and to recommend to the legislature the repeal of laws which they deem unconstitutional. They have power also to order a convention for the purpose of amending the constitution; publishing the articles proposed to be amended six months before the election of the delegates. These powers continue in the council of censors for one year.

THE DELEWARE STATE.

CONSTITUTION.

THE legislature is divided into two distinct branches, a *house of assembly* and a *council*, which together are called the *general assembly of Delaware*. The *house of assembly* consists of 27 members, seven of whom are chosen by each of the three counties of Newcastle, Kent, and Sussex, which compose the state. These members are chosen annually by the freeholders, and must be freeholders themselves. The *council* consists of nine members, three for each county, who must be freeholders, twenty-five years of age, and elected by the freeholders. A rotation of members is established by removing every year one member, who may however be re-elected, or another chosen at the discretion of the electors.

All money bills must originate in the house of assembly, but they may be altered, amended or rejected by the legislative council.

A president or chief magistrate is chosen by the joint ballot of both houses, and continues in office three years; at the expiration of which period, he is ineligible the three succeeding years. If his office becomes vacant during the recess of the legislature, or he is unable to attend to business, the speaker of the legislative council is vice-president for the time; and in *his* absence, the powers of the president devolve upon the speaker of the assembly.

A privy

A privy council, consisting of four members, two from each house, chosen by ballot, is constituted to assist the chief magistrate in the administration of the government.

The three justices of the supreme court, a judge of admiralty, and four justices of the common pleas and orphans courts, are appointed by the joint ballot of the president and general assembly, and commissioned by the president; they hold their offices during good behaviour. The president and privy council appoint the secretary, the attorney-general, registers for the probate of wills, registers in chancery, clerks of the common pleas, and orphans courts, and clerks of the peace, who hold their offices during five years, unless sooner removed for mal-conduct.

The house of assembly name twenty-four persons in each county for justices of peace, from which number the president, with the advice of his council, appoints and commissions twelve, who serve for seven years, unless sooner dismissed for mal-administration. The members of the legislative and privy councils are justices of the peace for the whole state.

The courts of common pleas and orphans courts have power to hold chancery courts in certain cases.

The clerk of the supreme court is appointed by the chief justice, and the recorders of deeds, by the justices of the common pleas, for five years, unless sooner dismissed.

All the military and marine officers are appointed by the general assembly.

The *court of appeals* consists of seven persons—the president, who is a member, and presides by virtue of his office, and six others, three to be chosen by the legislative council, and three by the house of assembly. To this court appeals lie from the supreme court in all matters of law and equity. The judges hold their office during good behaviour.

The justices of the several courts, the members of the privy council, secretary, trustees of the loan office, clerks of the common pleas, and all persons concerned in army or navy contracts, are ineligible to either houses of assembly. Every member, before taking his seat, must take the oath of allegiance, and subscribe a religious test, declaring his belief in God the Father, in Jesus Christ, and the Holy Ghost; and in the inspiration of the Scriptures.

The house of assembly have the privilege of impeaching delinquent officers of government, and impeachments are to be prosecuted by the attorney-general, or other person appointed by the assembly, and tried before the legislative council. The punishment may extend to temporary or perpetual disability to hold offices under government, or to such other penalties as the laws shall direct.

There is, in Delaware, no establishment of one religious sect in preference to another, nor can any preacher

preacher or clergyman, while in his pastoral employment, hold any civil office in the state,

STATE OF MARYLAND.

CONSTITUTION.

THE legislature is composed of two distinct branches, a *senate* and *house of delegates*, and styled *The general assembly of Maryland*.

The senators are elected in the following manner: On the first of September, every fifth year, the freemen chuse two men in each county to be electors of the senate, and one elector for the city of Annapolis, and one for the town of Baltimore. These electors must have the qualifications necessary for county delegates. They meet at Annapolis, or such other place as shall be appointed for convening the legislature, on the third Monday in September, every fifth year, and elect by ballot fifteen senators out of their own body, or from the people at large. Nine of these must be residents on the western shore, and six on the eastern—they must be more than twenty-five years of age—must have resided in the state more than three years next preceding the election, and have real and personal property above the value of a thousand pounds. In case of death, resignation, or inability of a senator, during

during the five years for which he is elected, the vacancy is filled by the senate. The senate may originate any bills, except money bills, to which they can only give their assent or dissent.

The senate chuse their president by ballot.

The house of delegates is composed of four members for each county, chosen annually on the first Monday in October. The city of Annapolis and town of Baltimore send each two delegates. The qualifications of a delegate, are, full age, one year's residence in the county where he is chosen, and real or personal property above the value of five hundred pounds.

Both houses chuse their own officers, and judge of the election of their members. A majority of each is a quorum.

The election of senators and delegates is *viva voce*, and sheriffs the returning officers, except in Baltimore town, where the commissioners superintend the elections and make returns. The stated session of the legislature is on the first Monday in November.

The qualifications of a freeman are full age, a freehold estate of fifty acres of land, and actual residence *in the county where he offers to vote*,—property to the value of thirty pounds *in any part of the state*, and a year's residence in the county where he offers to vote.

On the second Monday in November, annually,

a go-

a governor is appointed by the joint ballot of both houses, taken in each house respectively, and deposited in a conference room; where the boxes are examined by a joint committee of both houses, and the number of votes severally reported. The governor cannot continue in office longer than three years successively, nor be elected until the expiration of four years after he has been out of office.

The qualifications for the chief magistracy are, twenty-five years of age, five years residence in the state, next preceding the election, and real and personal estate above the value of five thousand pounds, one thousand of which must be freehold estate.

On the second Tuesday of November, annually, the senators and delegates elect by joint ballot, five able, discreet men, above twenty-five years of age, residents in the state three years next preceding the election, and possessing a freehold of lands and tenements above the value of a thousand pounds, to be a council for assisting the governor in the duties of his office.

Senators, delegates, and members of council, while such, can hold no other office of profit, nor receive the profits of any office exercised by another.

Ministers of the gospel are excluded from civil offices.

The governor, with the advice of his council, appoints,

appoints the chancellor, all judges and justices, the attorney-general, naval and militia officers, registers of the land office, surveyors, and all other civil officers, except constables, assessors, and overseers of the roads.

A court of appeals is established for the final determination of all causes, which may be brought from the general court * of admiralty or of chancery.

This constitution was established by a convention of delegates, at Annapolis, August 14. 1776.

COMMONWEALTH OF VIRGINIA.

CONSTITUTION.

THE legislative powers are vested in a house of delegates and a senate, which together form the general assembly of Virginia. The house of delegates is composed of two members from each county, chosen annually by the citizens possessing an estate for life in 100 acres of uninhabited land, or 25 acres with a house on it; or having a house or lot in some town. The senate consists of twenty-four members who hold their seats for four years, six of them being changed every year. The elec-

* In some of the eastern states the legislature is called *the general court*. In some of the southern, *the general court* is the *supreme judicial court*.

tors who chuse the delegates chuse also the senators, and are for that purpose divided into 24 districts.

The concurrence of both houses is necessary to the passing a law : they jointly and by ballot chuse annually the governor (who can fill that office only three years out of seven), the president, who acts as lieutenant governor, and the delegates to congress. They also appoint the council, judges of the superior courts, auditors, attorney-general, treasurer, and register of the land office.

COURTS AND LAWS.

There are three superior courts, to which appeals lie from the courts below ; to wit, the high court of chancery, the general court, and court of admiralty. The first and second of these receive appeals from the county courts, and also have original jurisdiction where the subject of controversy is of the value of ten pounds sterling, or where it concerns the title or bounds of land. The jurisdiction of the admiralty is original altogether. The high court of chancery is composed of three judges, the general court of five, and the court of admiralty of three. The two first hold their sessions at Richmond at stated times, the chancery twice in the year, and the general court twice for business civil and criminal, and twice more for criminal only. The court of admiralty sits at Williamsburg whenever a controversy arises.

There

There is one supreme court, called the court of appeals, composed of the judges of the three superior courts assembling twice a year at stated times at Richmond. This court receives appeals in all civil cases from each of the superior courts, and determines them finally. But it has no original jurisdiction.

If a controversy arise between two foreigners of a nation in alliance with the United States, it is decided by the consul for their state, or, if both parties chuse it, by the ordinary courts of justice. If one of the parties only be such a foreigner, it is triable before the courts of justice of the country. But if the cause shall have been instituted in a county court, the foreigner, may remove it into the general court or court of chancery, who are to determine it at their first sessions, as they must also do if it be originally commenced before them: In cases of life and death, such foreigners have a right to be tried by a jury, the one half foreigners, the other natives.

All public accounts are settled with a board of auditors, consisting of three members, appointed by the general assembly, any two of whom may act. But an individual, dissatisfied with the determination of that board, may carry his case into the proper court.

In 1661, the laws of England were expressly adopted by an act of the assembly of Virginia, except so far as a difference of condition rendered them inapplicable. To these were added a number

ber of acts of assembly, passed during the monarchy, and ordinances of convention, and acts of assembly since the establishment of the republic. The following variations from the British model are worthy of notice.

‘ Debtors unable to pay their debts, and making faithful delivery of their whole effects, are released from their confinement, and their persons for ever discharged from restraint for such previous debts : but any property they may afterwards acquire will be subject to their creditors.

‘ The poor, unable to support themselves, are maintained by an assessment on the titheable persons in their parish *.

‘ A foreigner of any nation, not in open war with us, becomes naturalized by removing to the state to reside, and taking an oath of fidelity ; and thereupon acquires every right of a native citizen.

‘ Slaves pass by descent and dower as lands do.

‘ Slaves, as well as lands, were entailable during the monarchy : but, by an act of the first republican assembly, all donecs in tail, present and future, were vested with the absolute dominion of the entailed subject.

‘ Gaming debts are made void, and monies actually paid to discharge such debts (if they exceeded 40 shillings) may be recovered by the payer

* This is surely conformable to, and not a variation from the British model.

within

within three months, or by any other person afterwards.

‘Tobacco, flour, beef, pork, tar, pitch, and turpetine, must be inspected by persons publicly appointed, before they can be exported.’

In 1785, the assembly enacted, that no man should be compelled to support any religious worship; place, or minister whatsoever, nor be enforced, restrained, molested, or burdened in his body or goods, nor otherwise suffer on account of his religious opinions or belief; but that all men should be free to profess, and by argument to maintain, their opinion in matters of religion; and that the same should in no wise diminish, enlarge, or effect, their civil capacities.

In october 1786, an act was passed by the assembly, prohibiting the importation of slaves into the commonwealth, upon penalty of the forfeiture of the sum of £.1000 for every slave. And every slave imported contrary to the true intent and meaning of this act, becomes free.

STATE OF NORTH CAROLINA.

CONSTITUTION.

BY the constitution of this state, which was ratified in December, 1776, all legislative authority is vested in two distinct branches, both dependent on the
the

the people, viz. *A Senate and House of Commons*, which, when convened for business, are styled the *General Assembly*.

The senate is composed of representatives, one for each county, chosen annually by ballot.

The house of commons consists of representatives chosen in the same way, two for each county, and one for each of the towns of Edenton, Newbern, Wilmington, Salisbury, Hillsborough, and Halifax.

The qualifications for a senator, are one year's residence, immediately preceding his election, in the county in which he is chosen, and 300 acres of land in fee.

A member of the house of commons must have usually resided in the county in which he is elected, one year immediately preceding his election, and for six months shall have possessed, and continue to possess, in the county which he represents, not less than 100 acres of land in fee, or for the term of his own life.

A freeman of 21 years of age, who has been an inhabitant in the state twelve months immediately preceding the day of any election, and who had possessed a freehold of fifty acres of land within the county for six months next before, and at the day of election, is entitled to vote for a member of the senate.

All freemen of 21 years of age, who have been inhabitants of the state the year next before the

election, and have paid public taxes, may vote for members of the house of commons.

The senate and house of commons, when convened, choose each their own speaker, and are judges of the qualifications and elections of their members. They jointly, by ballot at their first meeting after each annual election, choose a governor for one year, who is not eligible to that office longer than three years in six successive years; and who must possess a freehold of more than £1000, and have been an inhabitant of the state above five years. They, in the same manner and at the same time, elect seven persons to be a council of state for one year, to advise the governor in the execution of his office. They appoint a treasurer or treasurers for the state. They triennially choose a state-secretary. They jointly appoint judges of the supreme courts of law and equity; judges of admiralty, and the attorney-general, who are commissioned by the governor, and hold their offices during good behaviour. They prepare bills, which must be read three times in each house, and be signed by the speaker of both houses, before they pass into laws.

Judges of the supreme court; members of council; judges of admiralty; treasurers; secretaries; attorney-generals for the state; clerks of record; clergymen; persons denying the Being of a God, the truth of the protestant religion, or the divine authority of the Old or New Testament; receivers
of

of public monies, whose accounts are unsettled ; and military officers in actual service, are all ineligible to a seat either in the senate or house of commons. Justices of the peace, being recommended by the representatives, are commissioned by the governor, and hold their offices during good behaviour. The constitution allows of no religious establishment. The legislature is authorized to regulate entails so as to prevent perpetuities ; a majority of both houses is necessary to do business.

STATE OF SOUTH CAROLINA.

CONSTITUTION.

THE legislative authority is vested in a senate and house of representatives, forming together a General Assembly. In this assembly is chosen by ballot a governor and lieutenant-governor, both to continue in office for two years, and a privy-council, consisting of the lieutenant-governor and eight other persons, all of the protestant religion.

The governor and lieutenant-governor must have been residents in the state for 10 years, and the members of the privy-council 5 years, preceding their election, and possess a freehold in the state of the value of at least ten thousand pounds currency, clear of debt.

The governor is eligible but two years in six years, and is vested with the executive authority of the state.

The senate are chosen by ballot, biennially, on the last Monday in November—thirteen make a quorum. A senator must be of the protestant religion; must have attained the age of 30 years; must have been a resident in the state at least 5 years; and must possess a freehold in the parish or district for which he is elected, of at least £.2000 currency, clear of debt.

The last Monday in November, biennially, two hundred and two persons are to be chosen in different parts of the state (equally proportioned) to represent the freemen of the state in the general assembly, who are to meet, with the senate, annually, at the seat of government, on the first Monday in January.

All free whitemen of 21 years of age, of one year's residence in the state, and possessing freeholds of 50 acres of land each, or what shall be deemed equal thereto, are qualified to elect representatives.

Every fourteen years the representation of the whole state is to be proportioned in the most equal and just manner, according to the particular and comparative strength and taxable property of the different parts of the same.

All money bills for the support of government, must originate in the house of representatives, and shall

shall not be altered or amended by the senate, but may be rejected by them.

Ministers of the gospel are ineligible to any of the civil offices of the state.

The power of impeaching officers of the state is vested in the house of representatives.

The lieutenant-governor, and a majority of the privy-council, exercise the powers of a court of chancery.

Justices of the peace are nominated by the senate and representatives, jointly, and commissioned by the governor during pleasure.

All other judicial officers are chosen by the senate and representatives, jointly, and (except the judges of the court of chancery) commissioned by the governor during good behaviour.

All religious societies, who acknowledge that there is one God, a future state of rewards and punishments, and that God is to be publicly worshipped, are freely tolerated.

The liberty of the press is to be preserved inviolate.

No part of this constitution is to be altered, without a notice of ninety days being previously given, nor then, without the consent of a majority of the members of the senate and house of representatives.

By the laws of this state the evidence of a slave cannot be taken against a white man ; and a master who kills his slave, is only punishable by a mulct, and twelve months imprisonment.

STATE

STATE OF VERMONT.

CONSTITUTION.

THE inhabitants of Vermont, by their representatives in convention, at Windsor, on the 25th of December, 1777, declared that the territory called Vermont, was, and of right ought to be a free and independent state; and for the purpose of maintaining regular government in the same, they made a solemn declaration of their rights, and ratified a constitution, of which the following is an abstract.

Their declaration, which makes a part of their constitution, and is similar to those of the other states, * asserts that all men are born equally free, and with equal rights; and ought to enjoy liberty of conscience, freedom of the press, trial by jury, power to form new states in vacant countries, and to regulate their own internal police; that all elections ought to be free; that all power is originally in the people; that government ought to be instituted for the common benefit of the community; and that the community have a right to reform or abolish government: that every member of society hath a right to protection of life, liberty, and property; and in return is bound to contribute his proportion of the expence of that protection, and

* The states which, besides *Vermont* and *Massachusetts*, have made declarations of rights, are *Pennsylvania*, *Delaware*, *Maryland*, *Virginia*, and *North Carolina*.

yield his personal service when necessary : that he shall not be obliged to give evidence against himself ; that the people have a right to bear arms ; but no standing armies shall be maintained in time of peace : that the people have a right to hold themselves, their houses, papers, and possessions, free from search or seizure ; and therefore warrants without oaths first made, affording sufficient foundation for them, are contrary to that right, and ought not to be granted. That no person shall be liable to be transported out of this state for trial for any offence committed within this state, &c.

By the frame of government, the supreme legislative power is vested in a house of representatives of the freemen of the state of Vermont, to be chosen annually by the freemen on the first Tuesday in September, and to meet the second Thursday of the succeeding October. This body is vested with all the powers necessary for the legislature of a free state, and two-thirds of the whole number of representatives elected, make a quorum.

Each inhabited town throughout the state, has a right to send one representative to the assembly.

The supreme executive power is vested in a governor, lieutenant-governor, and twelve counsellors, to be chosen annually in the same manner, and vested with the same powers, as in Connecticut.

Every person of the age of 21 years, who has resided in the state one whole year next before the election

election of representatives, and is of a quiet, peaceable behaviour, and will bind himself by his oath, to do what he shall in conscience judge to be most conducive to the best good of the state, shall be entitled to all the privileges of a freeman of this state.

Each member of the house of representatives before he takes his seat, must declare his belief in one God, in future rewards and punishments, and in the divinity of the scriptures of the Old and New Testament, and must profess the protestant religion.

Courts of justice are to be established in every county throughout the state.

The supreme court, and the several courts of common pleas of this state, besides the powers usually exercised by such courts, have the powers of a court of chancery, so far as relates to perpetuating testimony, obtaining evidence from places not within the state, and the care of the persons and estates of those who are *non compotes mentis*, &c. All prosecutions are to be commenced in the name, and by the authority of the freemen of the states of Vermont. The legislature is to regulate entails so as to prevent perpetuities.

All field and staff-officers, and commissioned officers of the army, and all general officers of the militia, shall be chosen by the general assembly, and be commissioned by the governor.

Every seventh year, beginning with the year 1785,
thirteen

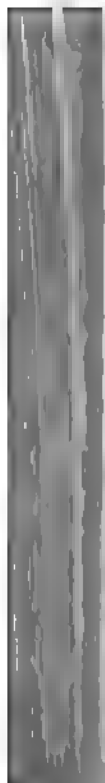
thirteen persons (none of whom are to be of the council or assembly) shall be chosen by the free-men, and be called *the council of censors* whose duty it shall be to enquire whether the constitution has been preserved inviolate in every part—whether the legislative and executive powers have been properly exercised—taxes justly laid and collected—the public monies rightly disposed of—and the laws duly executed. For these purposes, they shall have power to send for persons, papers, &c.—to pass public censures—to order impeachments, and to recommend the repeal of all laws enacted contrary to the principles of the constitution. They are to be vested with these powers for one year only, after the day of their election.

The council of censors, when necessary, may call a convention, to meet within two years after their sitting, to alter the constitution : but the proposed alterations must be published at least six months before the election of delegates to such convention.

END OF THE SECOND VOLUME.







127



**THE NEW YORK PUBLIC LIBRARY
REFERENCE DEPARTMENT**

**This book is under no circumstances to be
taken from the Building**

[illegible]

from the



Doc ID: 81914

Vertical line of text or markings on the left side of the page.

Handwritten mark or signature at the bottom right of the page.

